



Case 198612000785

Printed on October 31, 2017

Status	Approved
Report Type	Incident
Primary Officer	Paul Oubre
Investigator	None
Reported At	12/15/86 00:00
Incident Date	12/15/86 00:00 - 12/15/86 00:00
Incident Code	27/30 : ATTEMPTED MURDER
Location	LA 3127 TEXACO STAT
Zone	
Beat	
Disposition	Closed - Resolved
Disposition Date/Time	05/19/14 14:10

Case Comments

Offense Information

Offense	NO Offense
Statute	
LIBRS Code	
Counts	1
Include In NIBRS	No
Completed	Yes
Bias Motivation	None (no bias)
Location	Other/Unknown
Entry Forced	No

Arrestee

TOPPINS, HORACE, JR	
Male, DOB 10/11/50	NO Offense
7318 ALABAMA ST	
NEW ORLEANS, LA	

Offender

TOPPINS, HORACE, JR	
Male, DOB 10/11/50	NO Offense
7318 ALABAMA ST	
NEW ORLEANS, LA	

Suspect

TOPPINS, HORACE, JR

Male, DOB 10/11/50

7318 ALABAMA ST
NEW ORLEANS, LA

NO Offense

Victim

SIMPSON, DOYLE

Male, DOB 8/20/57

#316 NO. ELM APT D ME ST

NO Offense

Supporting Narrative By Kenneth Oubre, 12/02/95 00:00

NARRATIVE REPORT

ATT MURDER / ARMED ROBBERY -

SUBJ ARRESTED KIDNAPPED VIC FROM JEFFERSON PARISH, BROUGHT VIC
TO ST JOHN PARISH, TIED VIC TO A TREE, SHOT VIC TWICE, LEFT HIM
FOR DEAD, STOLE VIC MONEY

0 5 2 9 3 7 0 3 4 7 1

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. #87-0010

DIVISION "J "

DOCKET NO.

STATE OF LOUISIANA

VERSUS

HORACE TOPPINS

FILED _____

CLERK _____

MOTION TO SUPPRESS THE CONFESSION

Defendant herein through undersigned counsel, moves to suppress the use as evidence of all written confessions or any other written inculpatory statements obtained from movers by law enforcement officers of Jefferson Parish Police Department

All of said confessions and other inculpatory statements are inadmissible as evidence because they were not made by mover to said Police Officers or anyone else freely and voluntarily but were made under the influence of fear, durress, intimidation, menaces, threats, inducements, and promises and/or without mover having been advised of his right to remain silent and right to counsel

Respectfully submitted:

Wm J Whitney

WILLIAM J. WHITNEY
Attorney for Defendant
1440 Poydras Center
650 Poydras Street
New Orleans, LA 70130

O R D E R

CONSIDERING THE FOREGOING MOTION:

IT IS ORDERED, that the State of Louisiana show cause on the ____ day of _____, 1987, at ____ o'clock A.M., why this Motion should not be granted.

Gretna, Louisiana this __ day of _____, 1987.

JUDGE SECTION D

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. #87-0010

DIVISION "J"

DOCKET NO. #

STATE OF LOUISIANA

VERSUS

HORACE TOPPINS

FILED: _____

DEPUTY CLERK _____

MOTION OF INTENT TO
OFFER A DEFENSE OF ALIBI

NOW INTO COURT, through undersigned counsel comes the defendant, HORACE TOPPINS, who with respect represents that the defendant intends to utilize a defense of alibi, and desires that this Motion serve to satisfy Louisiana Code of Criminal Procedure, Article 727 (A), and that:

I.

From approximately 1:00 p.m. on December 15, 1986, HORACE TOPPINS was in the company of the following people whom defendant may call as witnesses:

- (a) Joanne Toppins, 4935 Rhodes Drive,
New Orleans, Louisiana
- (b) Natalie Toppins, 4935 Rhodes Drive,
New Orleans, Louisiana
- (c) Lolita Toppins, 4935 Rhodes Drive,
New Orleans, Louisiana

WHEREFORE, defendant prays that the above and foregoing satisfy the State's Motion for Notice of Alibi under the Louisiana Code of Criminal Procedure, Article 727 (A).

Respectfully submitted:
Wm J. Whitney
WILLIAM J. WHITNEY
Attorney for Defendant
1440 Poydras Center
650 Poydras Street
New Orleans, LA 70130
(504) 522-7260

#30

MOTION HISTORY

00143600 JDA2 08/17/87 15:39:22

NO WARRANTS FOUND

NAME: BIRDEN WILLIE J NM 10/25/65 LA
500 100 HAIR/BLK EYE/BRO 01/01/00 0260000
ADDRESS: 232 GLENDELLA DR AVONDALE LA 999 11/18/81 0260000
ARRESTS: FELONY/00 MISDEMEANOR/00 CITY/000 TRAFFIC/000 08/25/86
CONVS: FELONY/00 MISDEMEANOR/00 CITY/000 TRAFFIC/000 08/25/86
STATUS: NO KNOWN STATUS INDICATORS 08/25/86
HISTORY: NO KNOWN HISTORY INDICATORS 08/25/86
BOFI/J1104 000 01/01/00 0260000

X/YARR.20143600

MARR MOTION ARREST

00143600 JDA2 08/17/87 16:02:25

NAME: BIRDEN WILLIE J NM 10/25/65 LA
500 100 HAIR/BLK EYE/BRO 01/01/00 0260000
ARRESTS: FELONY/00 MISDEMEANOR/00 CITY/000 TRAFFIC/000 08/25/86
CONVS: FELONY/00 MISDEMEANOR/00 CITY/000 TRAFFIC/000 08/25/86
STATUS: NO KNOWN STATUS INDICATORS 08/25/86
HISTORY: NO KNOWN HISTORY INDICATORS 08/25/86
BOFI/J1104 000 01/01/00 0260000
ARREST: 00232 GLENDELLA 08/10/78 : 0 AM 52 LA 3 UNKNOWN
JUV -0539278 08/10/78 0260000
RS 13 B-11 AGGRAVATED RAPE
NO DISPOSITION 00/00/00 NO REASON GIVEN SES
NO SENTENCE \$0.00 2 0260000

It is Alleged that ^{shot & killed}
On 12/15/87 Clyde Simpson was killed
in his home on Main St in Kenner.

R. S. Simpson

462 5946

4:15
8-25-87
JEMAIN LEIGH ABILA
~~2264215 ENGLEWOOD ST~~
METAIRIE

1 AUG24, 87

2300 Eden Vaux Ave Apt 312
LA 70001
II

MICHAEL CANGELOSI JR
2357 CADDY DR
HARRERO

63 AUG24 87

LA 70072

MARGARET G CARBO
117 JASMINE LANE
WAGGAMAN

64 AUG24 87

LA 70094

BYRNES T CARRIERE JR
1508 AIRLINE PK BLVD
METAIRIE

65 AUG24 87

LA 70003

NANCY P CLAY
607 FIFTH AVE
HARVEY, LA

74 AUG24 87

70058

MRS ALICE G COMMAGERE
2510 DIVISION ST
METAIRIE, LA

78 AUG24 87

70001

JOHN E CREGER
4717 CLEARLAKE DR
METAIRIE, LA

83 AUG24 87

70006

MRS LINDA L DAUTERIVE
1417 PECAN ST
METAIRIE, LA

89 AUG24 87

70001

0986550 00047

 SERVICE

KARIN E JOHNSON
348 TRAVIS DR
AVONDALE

183 AUG24 87

LA 70094

WILLIAM HAROLD JOHNSTON
4105 HENICAN PL
METAIRIE, LA

184 AUG24 87

70003

CONNIE A LEE
429 LAROUSSINI ST
WESTwego, LA

212 AUG24 87

70094

GARVIN J LEFORT
600 ELEVENTH ST
WESTwego, LA

213 AUG24 87

70094

MISS GERARDA L LEJEUNE
5916 LOUIS I AVE
MARRERO, LA

214 AUG24 87

70072

HAROLD M MARANTO JR
3512 E LA STATE DR
KENNER, LA

228 AUG24 87

70065

2503395 00047

*EWK
8.24.87
only*

D SERVICE

12:40

8-24-87

Living

encl (50)

3 AUG24 87

ROY JOSEPH ADAMS
717 GARDEN RD
MARRERO, LA

70072

5 AUG24 87

DEMENTRA L ALEXANDER
1342 1/2 ELM ST
METAIRIE

LA 70003

7 AUG24 87

MARY S ALLEN
6809 ASHER
METAIRIE

LA 70003

8 AUG24 87

RODERICK W ALLEN
2608 TAFFY DR
MARRERO

LA 70072

23 AUG24 87

MRS ROSE C BEARD
4213 TARTAN DR
METAIRIE, LA

70003

25 AUG24 87

JOHN A BELL JR
3517 CLEARVIEW PKWY
METAIRIE

LA 70002

27 AUG24 87

LESTER T BENSON JR
1713 BELMONT PL
METAIRIE, LA

70001

30 AUG24 87

WILLIE BIRDEN JR
232 GLEN DELLA DR
WESTwego, LA

70094

40 AUG24 87

CRAIG A BOUDREAUX
5112 WADE DR
METAIRIE, LA

70003

0414069 00047

D SERVICE

43 AUG 24 87
MRS MARION C BOURGEOIS
3000 CLAIRE AVE
GRETN, LA 70053

45 AUG 24 87
MELISSA C BOWMAN
~~1024 MANSON AVE~~ 805 Thudman Dr.
METAIRIE LA 70008

46 AUG 24 87
GERARD J BOYER
1005 GIUFFRIAS AVE
METAIRIE, LA 70001

50 AUG 24 87
JIMMIE J BREAUX
25 BLUEBELL LANE
WAGGAMAN LA 70094

52 AUG 24 87
LOUIS BRIDEVAUX
1205 N HOWARD AVE
METAIRIE, LA 70003


59 AUG 24 87
LINDA G BUSH
660 W NIAGARA
GRETN LA 70053

60 AUG 24 87
CHAD K BYRD
3138 AUGUSTA ST
KENNER, LA 70065

92 AUG 24 87
DANIEL J DEBAUTTE JR
6315 RIVER RD
WESTHEGO LA 70094

93 AUG 24 87
RAYMOND DELACERDA
3729 W TULANE DR
KENNER LA 70062

1030787 00046

 SERVICE

95 AUG24 87
KAREN ANN DEPOORTER
1021 HOOTER ROAD
BRIDGE CITY LA 70094

96 AUG24 87
DEBRA LEA DESILVA
24 VERDE ST
KENNER, LA 70065

97 AUG24 87
DANA M DIAS
319 TULLULAH AVE
RIVER RIDGE, LA 70123

99 AUG24 87
SHIRLEY S DITTA
609 FAIRMONT DR
HARVEY LA 70058

100 AUG24 87
SHELITHA D DOMINIC
2021 CONSTANTINE DR
HARRERO LA 70072

102 AUG24 87
CLAUDIUS M DOWDLE JR
520 HENRY LANDRY AVE
METAIRIE, LA 70003

112 AUG24 87
MARCUS A ELLINGTON
837 BELLINA DR LT#33
KENNER LA 70062

114 AUG24 87
CLAIRE D ESCHETTE
2417 RAMSEY ST
HARRERO LA 70072

115 AUG24 87
GEOFFREY E EUSTIS
316 PHOSPHOR AVE
METAIRIE, LA 70005

1265210 00047

P
SERVICE

135 AUG24 87
ALBERT C GAUTHREAUX
152 MARIE DR
WESTHEGO, LA 70094

136 AUG24 87
ANTHONY L GELLER
2408 TAFFY DR
KENNER, LA 70065

140 AUG24 87
HENRY GLASPER
312 FIFTH ST
GRETN, LA 70053

151 AUG24 87
JEFFREY P GUILLOT
235 ORION ST
METAIRIE LA 70005

195 AUG24 87
MRS THERESA P KLIEBERT
5216 LOVELAND ST
METAIRIE, LA 70006

215 AUG24 87
GARY P LEONARD
1617 HUDSON ST
KENNER, LA 70062

217 AUG24 87
MRS LIZZIE G LEWIS
3101 PANAMA ST
KENNER, LA 70065

218 AUG24 87
STEVEN J LILJEBERG
832 HUCKLEBERRY LN
GRETN, LA 70056

219 AUG24 87
TIMMY M LIRETTE
621 EISEMAN ST
MARRERO, LA 70072
2392836 00047

D
SERVICE

THOMAS F ODOM

~~3131 LEMOLA DR~~

KENNER

267 AUG24 87

#33 Traminer

LA 70065

JOSEPH L OLIVIO JR

2316 NORTH SIBLEY

METAIRIE

268 AUG24 87

LA 70003

EULA F ORGERON

616 MAC ARTHUR AVE

HARVEY

269 AUG24 87

LA 70058

LEONCE PAUL OUGEL

612 PASADENA AVE

METAIRIE, LA

271 AUG24 87

JR

70001

RAJ PANDIAN

17 MAUREPAS LN

KENNER, LA

273 AUG24 87

70065

JAMES L PARKER II

6305 RUTH ST

METAIRIE

274 AUG24 87

LA 70003

GARY L PERRIEN

2332 HAMPTON

HARVEY

280 AUG24 87

LA 70058

NORMAN P PERTUIT SR

1409 DOGWOOD DR

HARVEY, LA

281 AUG24 87

70058

MISS WINNIE L SOULE

2113 BELLE CHASSE HWY

GRETN, LA

343 AUG24 87

70056

3726487 00046

SERVICE

DENNIS L SWITZER
28 MERCUREY DR
KENNER, LA

354 AUG24 87

70065

MRS BERNETHA B WALTERS
1721 PLAZA DR
MARRERO, LA

381 AUG24 87

70072

GEORGE WARREN
6101 6TH ST
MARRERO

382 AUG24 87

LA 70072

MRS GLINDA V WILLIAMS
1319 KEPLER ST
GRETN, LA

390 AUG24 87

70053

MELVIN R WILLIAMS
684 WALL BLVD
GRETN, LA

391 AUG24 87

70056

4247256 00046

D SERVICE

VICTIM: -

Office of the Clerk — 24th Judicial District Court
Parish of Jefferson, Gretna, La.

14-30, 20, 45
75654

Case No. 87-10 "J"

Item No. L-785-86
L-9222-86

Lab. No. _____

State of Louisiana Vs. FLORACE TOPPING

The following filed as evidence in above entitled cause.

Received from DET. D. DRUITT D.A. OFFICE

Evidence: FOUR
THREE BROWN EVIDENCE ENVELOPES
CONTAINING, 1 CAP, 1 BROKEN JAR
113. PAPERS & BROKEN BRANCHES
ONE BROWN PAPER BAG WITH
113. CLOTHING
1 CIG. LIGHTER
1 BROKEN BRUSH
46 U.S. COINS

Time 3:05 P. M. Filed 8-10 19 88

S & V
[Signature]
DEPUTY CLERK

Disposition:
Received from the Clerk of the 24th Judicial District Court, Parish of Jefferson, Gretna, Louisiana, the above described evidence except as follows:

_____ 19 _____

RECIPIENT



RIVER PARISHES MEDICAL CENTER

LAPLACE • LOUISIANA

TRANSFER SUMMARY

NAME: SIMPSON, DOYLE

HOSPITAL NO.: 128467

ADMITTED: 12-15-86

DISCHARGED: 12-23-86

ATTENDING PHYSICIAN: WAYNE ROBICHAUX, M.D.

CONSULTANT: B. MOTAGHEDI, M.D., W. JOHNSTON, M.D.

PRIMARY DIAGNOSIS: Gunshot wound to back and neck with supraglottic through and through injury. Radial nerve injury of unknown specificity at present.

PROCEDURES: Bilateral neck exploration, repair of supraglottic injuries bilaterally.

COMPLICATIONS: Pneumonia and recurrent aspiration.

HISTORY: This is a 29 year old black male admitted on 12-15-86 after being involved in a shooting incident. The patient was shot twice by an unknown assailant who was also involved in a murder in Kenner. The patient was taken to a wooded area in Edgard, La. and an attempted execution was performed. The patient had two bullet wounds from a 9mm. pistol which entered over the left scapula, one track posteriorly through the trapezius muscle staying within the neck and lodging in the posterior aspect at the base of the skull without evidence of injury save for the possibility of a radial nerve injury. The other bullet track through the neck and entered the supraglottic area below the carotid on the left side and exited a little bit anteriorly of midline in the supraglottic area on the right side. A bilateral neck exploration was performed on the patient the day of admission with repair of the holes in the supraglottic aspect. Complete exploration of both carotid arterial systems was performed without evidence of injury and no evidence of vascular compromise.

Bullet wounds were just slightly above the recurrent laryngeal nerve entrances into the cricothyroid cartilage and this was felt not to be the source of his hoarseness. A large amount of edema and subcutaneous emphysema with spillage of posterior oral pharyngeal contents into the neck was identified. This was irrigated out and bilateral drainage of the repairs was performed using Penrose Drains. Consultation was obtained with the ENT Specialist, Dr. Motaghedi, who assisted in the performance of the operation. Dr. Johnston was consulted for neurosurgical evaluation of the patient's peripheral nerve injury.

....continued....



RIVER PARISHES MEDICAL CENTER

LAPLACE • LOUISIANA

TRANSFER SUMMARY PAGE TWO

NAME: SIMPSON, DOYLE

HOSPITAL NO.:

ADMITTED:

DISCHARGED:

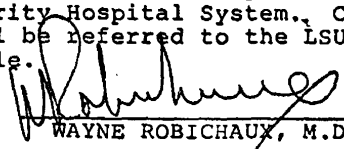
ATTENDING PHYSICIAN:

His feeling is that it is more likely to be neuropractic and should improve with time. He has recommended that in the future the patient receive EMG and nerve conduction studies to evaluate this when he is more stable. The patient's post-operative course was complicated by elevated temperatures on the second postoperative day with appearance of a pneumonia in the left lower lobe thought to have occurred from drainage down the trachea secondary to the injuries. The patient was cultured by trap suctioning, found to have an enterobacter cloacae growing in the left lower lobe. Patient was placed on Pen and Gentamycin and carried on this for 5 days with resolution of the symptoms and complete clearing of his left lower lobe. The patient has had no fever for four days and is without complications from his pneumonia.

The patient was begun on hyperalimentation the second day after surgery by tube feeding. There was some regurgitation and this was discontinued and started again on the fourth day by placement of a smaller Keo feeding tube. The patient tolerated these feedings well and has been elevated to 150cc's. an hour of high concentration Trava Sort MCT Formula. The patient has tolerated these feedings. His total weight loss has been less than 10 pounds, however, he cannot maintain oral nutrition. The patient has been attempted on feedings with clear liquids and has aspirated on two occasions. Additionally, attempts to feed the patient water and ice have also been noted to cause profound coughing episodes. He is tolerating tube feedings at present with minimal intake of clear liquid diet in sips and this has been the total amount of oral nutrition he is able to undertake.

The patient is unemployed and has had no insurance. He has been maintained at this hospital in hopes of an expedient recovery. However, at this point in time the patient is looking at prolonged hyperalimentation with possibility of tracheostomy to prevent aspiration. It is felt that it is necessary at this time to transfer the patient to The Charity Hospital System. Contacts have been made and the patient will be referred to the LSU Surgical Service as soon as possible.

dd/dt 12-23-86 bcf


WAYNE ROBICHAUX, M.D.

				RIVER PARISHES MEDICAL CENTER	
				LAPLACE	LOUISIANA
				RADIOLOGY DEPT.	
				<input type="checkbox"/> X-RAY <input type="checkbox"/> NUCLEAR MEDICINE <input type="checkbox"/> ULTRA SOUND	
INTERPRETATION REPORT					
ADDRESSOGRAPH OR NAME		AGE	ROOM NO.	DATE	X-RAY NO.
SIMPSON, DAYLE		29	ER	12/15/86	24356
HOSPITAL NUMBER		537820			
ANATOMICAL PART OR REGION:					
CERVICAL SPINE SERIES					
DAP CHEST					
GASTROGRAPH AND SWALLOW					
					ATTENDING PHYSICIAN DR. GUERINGER

FINDINGS:

CERVICAL SPINE SERIES:

There is no apparent fracture or subluxation. Vertebral body heights and disc spaces are well maintained. Range of motion appears relatively normal on the flexion and extension lateral views. There is extensive subcutaneous air over the entire neck area. A large metallic fragment lies in the soft tissues of the upper neck posterior to the C1 region. This presumably represents a bullet fragment from the gunshot wound.

IMPRESSION:

THERE IS A LARGE BULLET FRAGMENT IN THE SOFT TISSUES OF THE POSTERIOR NECK AS DESCRIBED. NO FRACTURE OR OTHER BONY ABNORMALITY WAS IDENTIFIED. THE EXTENSIVE SUBCUTANEOUS EMPHYSEMA SUGGESTS EITHER A TRACHEAL OR ESOPHAGEAL INJURY.

DAP CHEST:

External cardiac monitoring wires overlie the chest wall. The heart size is within normal limits. There is some air in the mediastinum, seen best on the left. The lungs are clear. No pneumothorax is demonstrated. There is subcutaneous air in the neck and along the lateral chest wall on the left. There also appear to be fragments projecting over the lower lateral scapula. The bones otherwise appear intact.

IMPRESSION:

THERE IS EXTENSIVE SUBCUTANEOUS EMPHYSEMA, AND THERE IS SOME AIR IN THE MEDIASTINUM. THIS PRESUMABLY IS DUE TO THE PENETRATING GUNSHOT WOUND. THE FRAGMENTS OVER THE LOWER LATERAL SCAPULA ALSO ARE PROBABLY DUE TO THE GUNSHOT WOUND.

GASTROGRAHP AND SWALLOW:

The patient swallowed the Gastrografin without apparent difficulty. There is no evidence of obstruction. No contrast extravasation was demonstrated.

ad/dt: 12/15/86 js

DR.

J. FOREMAN, M. D.

RADIOLOGIST

RAD. 4 REV. 5/82

CHART

ADDRESSOGRAPH OR NAME PATIENT NAME SIMPSON, DOYLE				RIVER PARISHES MEDICAL CENTER LAPLACE • LOUISIANA					
				RADIOLOGY DEPT.		<input type="checkbox"/> X-RAY <input type="checkbox"/> NUCLEAR MEDICINE <input type="checkbox"/> ULTRA SOUND			
				INTERPRETATION REPORT					
ANATOMICAL PART OR REGION:				AGE 29	ROOM NO. ICU	DATE 12-15-86	X-RAY NO. 24356	HOSPITAL NUMBER 128467	
DAP PORTABLE CHEST (7:45 A.M.)									
								ATTENDING PHYSICIAN ROBICHAUX	

FINDINGS:

CHEST:

External cardiac monitoring wires overlies the chest wall. There is a tracheal tube in place with its tip at the T2-T3 level. An esophagogastric tube traverses the chest with its tip projecting over the left upper quadrant of the abdomen, probably within the gastric fundus. The heart size is within normal limits. There is air in the mediastinum with some widening of the upper portion. The lungs are clear. No pneumothorax is demonstrated. There is some pleural thickening at the left apex. Subcutaneous emphysema is noted in the neck and along the lateral aspect of the left chest wall. Bone fragments again are noted in the lower lateral aspect of the left scapula, presumably from the gunshot wound. The bones otherwise appear intact.

IMPRESSION:

ABNORMAL STUDY WITH FINDINGS AND TUBE PLACEMENTS AS DESCRIBED.

dd/dt 12-16-86 cs

RAD. 4 REV. 5/82

DR. _____

J. FOREMAN, M.D.

RADIOLOGIST

CHART

				RIVER PARISHES MEDICAL CENTER	
				LAPLACE	LOUISIANA
				RADIOLOGY DEPT.	
				<input type="checkbox"/> X-RAY <input type="checkbox"/> NUCLEAR MEDICINE <input type="checkbox"/> ULTRA SOUND	
INTERPRETATION REPORT					
PATIENT NAME		AGE	ROOM NO.	DATE	X-RAY NO.
SIMPSON, DOYLE		29	ICU	12-16-86	24356
ANATOMICAL PART OR REGION:		HOSPITAL NUMBER			
DAP PORTABLE CHEST (6:30 A.M.)		128467			
					ATTENDING PHYSICIAN
					ROBICHAUX

FINDINGS:

CHEST:

External cardiac monitoring wires overlie the chest wall. There is a tracheal tube in place with its tip at the T1-T2 level. An esophagogastric tube traverses the chest with its tip projecting over the left upper quadrant of the abdomen, probably within the gastric fundus. The heart size is within normal limits. There is air in the mediastinum and the upper portion of the mediastinum is again noted to be widened. The lungs remain clear. No pneumothorax is demonstrated. There is subcutaneous air in the neck and over the upper lateral aspect of the left chest wall. There also is soft tissue swelling over the neck area, most marked on the left. Small bone fragments project over the lower lateral aspect of the left scapula from the gunshot wound. A staple also projects over the left scapula.

IMPRESSION:

ABNORMAL STUDY WITH
MULTIPLE FINDINGS AND TUBE PLACEMENTS
AS DESCRIBED.

dd/dt 12-16-86 cs

J. FOREMAN, M.D.

DR.

RADIOLOGIST

RAD. 4 REV. 5/82

CHART

				RIVER PARISHES MEDICAL CENTER	
				LAPLACE	LOUISIANA
				RADIOLOGY DEPT.	
				INTERPRETATION REPORT	
ADDRESSOGRAPH OR NAME					
PATIENT NAME	AGE	ROOM NO.	DATE	X-RAY NO.	HOSPITAL NUMBER
SIMPSON, DOYLE	29	1000F	12/18/86	24356	128467
ANATOMICAL PART OR REGION:					
DAP PORTABLE CHEST DONE 12/18/86 AT 8:15 A.M.					
				ATTENDING PHYSICIAN DR. ROBICHAUX	

FINDINGS:

CHEST:

External cardiac monitoring wires overlie the chest wall. There is a tracheal tube in place with its tip at the T3-T4 level. An esophagogastric tube traverses the chest with its tip projecting over the left upper quadrant of the abdomen, probably within the gastric fundus. There are skin staples in place over the neck from the prior surgery. The heart size is within normal limits. There is some infiltrate and/or atelectasis in the left lower lung. The left hemidiaphragm is elevated. The left upper lung and right lung are clear. No pneumothorax is demonstrated. Air in the mediastinum is not as apparent as on the previous study of 12/16/86. There also is less widening of the upper mediastinum. Soft tissue swelling is again present over the left neck. Bone fragments project over the lower lateral left scapula from the prior gunshot wound. There is very little subcutaneous emphysema on today's study.

IMPRESSION:

ABNORMAL STUDY WITH MULTIPLE FINDINGS, TUBE PLACEMENTS AND INTERIM CHANGES AS DESCRIBED. THE MOST SIGNIFICANT INTERVAL CHANGE IS THE PRESENCE OF INFILTRATE WITH SOME VOLUME LOSS IN THE LEFT LOWER LUNG.

dd/dt: 12/18/86 js

J. Foreman
J. FOREMAN, M. D.

DR.

RADIOLOGIST

RAD. 4 REV. 5/82

CHART

				RIVER PARISHES MEDICAL CENTER	
				LAPLACE	LOUISIANA
ADDRESSOGRAPH OR NAME				RADIOLOGY DEPT.	
				INTERPRETATION REPORT	
PATIENT NAME	AGE	ROOM NO.	DATE	X-RAY NO.	HOSPITAL NUMBER
SIMPSON, DOYLE	29	3000	12-19-86	24356	128467
ANATOMICAL PART OR REGION:					
CHEST X-RAY					
				ATTENDING PHYSICIAN	
				ROBICHAUX	

FINDINGS:

CHEST X-RAY:

Portable study marked 6:00 a.m. showed a normal sized cardiac silhouette. Left hemidiaphragmatic elevation was again noted. No pulmonary infiltrate or mass lesion was identified. Tracheal tube, esophageal tube, metallic staples and monitor leads were again demonstrated.

IMPRESSION:

PORTABLE STUDY WITH LEFT HEMIDIAPHRAGMATIC ELEVATION AS DESCRIBED, THE DEGREE OF WHICH APPEARED LESS PRO-
NOUNCED THAN ON PREVIOUS DAY'S STUDY.

12-20-86 ea

RAD. 4 REV. 5/82

DR. M. HANEMANN, M.D.
RADIOLOGIST

CHART

				RIVER PARISHES MEDICAL CENTER	
				LAPLACE	LOUISIANA
				RADIOLOGY DEPT.	
				INTERPRETATION REPORT	
ADDRESSOGRAPH OR NAME					
PATIENT NAME	AGE	ROOM NO.	DATE	X-RAY NO.	HOSPITAL NUMBER
SIMPSON, DOYLE	29	1000	12-20-86	24356	128467
ANATOMICAL PART OR REGION:					
CHEST X-RAY					
ATTENDING PHYSICIAN ROBICHAUX					

FINDINGS:

CHEST X-RAY:

Heart size is within normal limits. Streaky opacities at the medial aspect of the left lower lung field are thought to represent atelectatic change. Small caliber esophagogastric tube is noted, with its tip coiled in the left upper quadrant. Trachael tube has apparently been removed. Left scapular irregularity is better demonstrated on previous day's study.

IMPRESSION:

LEFT LOWER LUNG FIELD OPACITY AS DESCRIBED, CONSISTENT WITH FOCAL ATELECTASIS.

12-20-86 ea

 M. HANEMANN, M.D.

DR. _____

RADIOLOGIST

RAD. 4 REV. 6/82

CHART

**River Parishes Medical Center**

LAPLACE • LOUISIANA

DOYLE SIMPSON

REPORT OF OPERATION

MR. NO.	MRSA. NO.	ATTENDING PHYSICIAN
		WAYNE ROBICHAUX, M.D.
DATE	RESIDENT	INTERM
12/15/86		

PATIENT IDENTIFICATION

PREOPERATIVE DIAGNOSIS:

GUNSHOT WOUND TO THE NECK WITH INJURY TO TRACHEA, PHARYNX, OR ESOPHAGUS; NO EVIDENCE OF VASCULAR INJURY & RADIAL NERVE INJURY ON THE LEFT SIDE.

POSTOPERATION DIAGNOSIS:

SUPRAGLOTTIC THROUGH & THROUGH INJURY OF THE TRACHEA WITH RADIAL NERVE INJURY TO THE LEFT ARM.

SURGEON:

WAYNE ROBICHAUX, M.D. ASSISTANTS:

OPERATION:

BILATERAL NECK EXPLORATIONS WITH EXPOSURE OF THE CAROTID ARTERIES AND JUGULAR VEINS; REPAIR OF SUPRAGLOTTIC INJURY TO THE TRACHEA WITH DRAINAGE OF BOTH NECKS; DEBRIDEMENT AND CLOSURE OF GUNSHOT WOUNDS. pre-OPERATIVE PHARYNGOSCOPY PRE-OPERATIVE TRACHEOSCOPY AND PREOPERATIVE ESOPHAGOSCOPY.

PROCEDURE: With the patient sedated on the table, flexible bronchoscope was introduced into the posterior pharynx. Through and through gunshot wound of the supraglottic area of the trachea was identified. The left cord appearing to be grossly moving; however, this was difficult to verify. The right cord appeared to be flacid and paralyzed at the right; however, this again was difficult to accurately identify because of the nature of edema and blood in the posterior hypopharynx. There was damaged tissue on both sides of the hypopharynx with a slightly more posterior tract from the left to slightly anterior to the right of the exact midline. Attempt to intubate the patient over the bronchoscope was unsuccessful and this was withdrawn. Following this pharyngoscopy was performed by use of a laryngoscope and a #9 tube was then placed into the tracheal area for intubation and respiration. Once this was completed further evaluation with the laryngoscope revealed aforementioned damage with extreme edema in the area, but no evidence of obstruction or blockage of the vocal cords. The esophagoscope was introduced into the posterior oropharynx with great difficulty. The proximal esophagus was evaluated, no evidence of injuries could be identified below the aforementioned areas of the supraglottic trachea. There was a fair amount of edema in the origin of the esophagus, but no evidence of damage. There was some blood noted in the area of the esophagus, but none could be seen coming from the area of the esophagus below the examination. The examination was carried down to about 20-25 cm., well below the previously noted injury and below any possible of the bullet. When this was felt to be satisfactory it was withdrawn. It was felt that the scope was hard to introduce solely because of the edema of the posterior oropharynx and no other reason could be identified. After this was completed, the neck was then prepped and draped. An incision was made from the anterior border of the sterno cleidomastoid by the angle of the jaw down anteriorly and swept across the anterior neck just below the cricoid cartilage and brought up the anterior border to the right just below the exit wound of the previous injury.

(GO TO PAGE 2)

SIGNATURE OF SURGEON

REPORT OF OPERATION

ORI REV. 5/82

CHART

**River Parishes Medical Center**

LAPLACE • LOUISIANA

DOYLE SIMPSON
(PAGE 2)**REPORT OF OPERATION**

NO.	HOSP. NO.	ATTENDING PHYSICIAN
DATE	RESIDENT	INTERM

PATIENT IDENTIFICATION

PREOPERATIVE DIAGNOSIS:

POSTOPERATION DIAGNOSIS:

SURGEON:

ASSISTANTS:

OPERATION:

The platysma was then incised and opened. Bovie electrocautery was used for hemostasis. Some vessels were ligated with 3-0 silk ties. Dissection on the right side was performed 1st. Dissection was carried down to the anterior border of the sternocleidomastoid. The hole was easily identified, traced back to the supraglottic trachea where some cartilage was debrided and removed and sent to pathology for identification and evaluation. The trajectory took the bullet away from the carotid artery. The sheath was open however, and the carotid was felt to be entirely normal as was the jugular vein and no evidence of damage in the area could be identified. Repair of the supraglottic trachea on this side was effected by use of interrupted 3-0 vicryl stitches on the submucosal area. The muscle was approximated over this area with 3-0 vicryl stitches with 4-0 vicryl stitches as well and further repair of pretracheal fascia and other material with 3-0 vicryl was then performed. Once this was completed, attention was turned to the left side. Dissection was then carried down along the anterior border of the sternocleidomastoid and tracked up as high as the parotid gland. Multiple small vessels in the area were identified and ligated with 3-0 silk ties. The common jugular vein was identified and required to be taken in order to gain access to the carotid artery and to the posterior oropharynx, pharyngeal area. This was divided between Munions and ligated with 2-0 silk free hand ties supported by 2-0 silk suture ligatures. Once this had been completed, the dissection was then carried down to the carotid sheath. Once vascular control was obtained, dissection along the medial aspect of the carotid along the external carotid artery was then performed in the area of a large stain suggesting the area of the injury. An entrance wound into the oropharynx could not be identified. The superior laryngeal and inferior thyroid arteries were then harvested and taken between clamps and ligated with 2-0 silk ties. Once this had been completed, an injury posterior to the carotid could be identified and an entrance wound into the posterior oropharynx was then also identified. The area was debrided. Then it was tracked into the area of the submucosa. Again, 4-0 vicryl stitches were placed in this area as well as the surrounding cricopharyngeous muscle. Following this 2 1/4 inch Penrose drains were then placed into the beds around both supraglottic injuries. Once this was completed, They were taken out of tracts laterally and inferiorly to both sides of the incision. After Bovie electrocautery was used for further hemostasis, the area was irrigated with sterile saline. The wounds were then closed using interrupted 3-0 vicryl.

SIGNATURE OF SURGEON

REPORT OF OPERATION

OR1 REV. 5/82

(GO TO PAGE 3)

CHART



River Parishes Medical Center

LAPLACE • LOUISIANA

REPORT OF OPERATION

NO.	HOSP. NO.	ATTENDING PHYSICIAN
DATE	RESIDENT	INTERM

DOYLE SIMPSON
(Page 3)

ICy

PATIENT IDENTIFICATION

PREOPERATIVE DIAGNOSIS:

POSTOPERATION DIAGNOSIS:

SURGEON:

ASSISTANTS:

OPERATION:

The skin was approximated with a skin stapler. A dressing was applied. The patient was then turned to the side. The neck injuries on the right side was 1st stapled closed. The injuries over the left shoulder and left neck were also approximated by use of staples after debridement of the wounds. Once this had been completed, dressings were placed on these.

The patient was removed from the operating table in satisfactory condition.

Estimated blood loss about 250 - 300 cc's, with an additional 100-150 cc's in the neck prior to surgery.

dd: 12/15/86 dt: 12/16/86vw

WAYNE ROBICHAUX, M.D.

SIGNATURE OF SURGEON

REPORT OF OPERATION

ORI REV. 5/82

CHART

TWENTY-FOURTH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

STATE OF LOUISIANA

*

NUMBER: 87-0010

VERSUS

*

HORACE TOPPINS, JR.

*

DIVISION "J"

* * * * *

Plea and sentencing taken
in the above-captioned matter in
open Court at Gretna, Louisiana,
before the Honorable Jacob L. Karno,
Judge, presiding, on August 26th,
1987.

APPEARANCES:

S. GUY DELAUP

ASSISTANT DISTRICT ATTORNEY

MARTIN REGAN

REPRESENTING THE DEFENDANT

WILLIAM WHITNEY

REPRESENTING THE DEFENDANT

Reported by: Florence Bazajou, O.C.R./C.S.R.

37 SEP 17 4:08

FILED FOR RECORD

Florence Bazajou
CLERK OF COURT
PARISH OF JEFFERSON LA

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P R O C E E D I N G S

MR. DELAUP:

Your Honor, this is matter Number 87-10, "State versus Horace Toppins." My name is Guy DeLaup on behalf of the State of Louisiana.

MR. REGAN:

I'd ask-- on behalf-- excuse me, Martin Regan appearing with Mr. William Whitney on behalf of the defendant, Horace Toppins. I'd ask that the courtroom be cleared of all witnesses in this trial-- just the witnesses in the trial.

THE COURT:

Okay. All witnesses want to stand for me, please?

(THE WITNESSES STAND)

THE COURT:

You're required to remain outside of the presence and hearing of the courtroom. You are not to discuss any part of your testimony. Thank you.

(THE WITNESSES AND SPECTATORS LEAVE THE COURTROOM)

MR. REGAN:

Your Honor, in case Number 87-0010, at this time we would tender to the State a plea of guilty to the charge of 14:31, manslaughter. Pursuant to that offer of a plea, we would hand to the Court defendant's acknowledgement of Constitutional Rights and Waiver of Rights, and entry of a guilty plea to manslaughter. I've gone over it

1 personally and signed it and observed the
2 defendant sign it, and given my client,
3 Horace Toppins, every opportunity to ask
4 questions.

5 THE COURT:

6 All right, have him come up here...

7 MR. DELAUP:

8 Your Honor, the plea is acceptable
9 to the State.

10 THE COURT:

11 All right, come up here, Mr. Toppins.

12 MR. REGAN:

13 And I'd ask permission to stand next
14 to my client at the witness stand.

15 THE COURT:

16 You can stand next to him.

17
18 HORACE TOPPINS, JR., sworn by
19 the Clerk, did testified as follows:

20 THE COURT:

21 All right, Mr. Toppins, it's now
22 11:15, almost 11:17. And I know that this
23 plea agreement with your counsel and the
24 District Attorney has been going on some
25 two and a half hours or two hours and-- over
26 two hours, is that correct?

27 MR. REGAN:

28 That's correct, your Honor.

29 EXAMINATION

BY THE COURT:

1 Q. All right, now give me your date of birth, Mr. Toppins.
2 A. I was born October the 11th, 1950.
3 Q. Makes you how old?
4 A. Makes me thirty-six years old.
5 Q. What's your education?
6 A. Approximately fourteen and a half years of schooling.
7 Q. All right, then you know how to read, write and you
understand the English language...
8 A. Yes.
9 Q. ...is that correct? Your last place of employment
10 prior to being incarcerated?
11 A. I was self-employed.
12 Q. As what?
13 A. As a business owner of a beauty salon.
14 Q. All right. And are you currently addicted to any
drugs, alcohol and/or medication?
15 A. No.
16 Q. You've been in the Parish jail since what date?
17 A. Since January 2nd, 1987.
18 Q. All right. Is there any reason known to you why
19 you are not mentally or physically able to
20 enter into this plea agreement?
21 A. No.
22 Q. If there's anything you do not understand, you stop
me, or if you have any questions you stop
23 me and I'll answer them for you. Your
24 attorney has advised the Court that you
25 want to withdraw your former plea of not guilty
26 and enter a plea of guilty to the charge under
27 Louisiana Revised Statute Title 14, Section
31, for manslaughter, is that correct?
28 MR. REGAN:
29 Your Honor, before he answers that let

1 me state for the record he is tendering a
2 plea of guilty to this charge under the
3 provisions of "Alfred," and having said that,
4 his answers will responsive under "Alfred."
5 He believes that it's in his best interest.
6 I've reviewed the case with the District
7 Attorney and with my client extensively and
8 I believe that he is knowingly and freely,
9 voluntarily and with full intelligence
10 tendering a plea of guilty under the "Alfred"
11 case, and with that I'd ask that he answer the
12 question.

12 THE COURT:

13 Is that acceptable to the State?

14 MR. DELAUP:

15 Acceptable to the State, your
16 Honor.

16 THE COURT:

17 All right.

18 THE WITNESS:

19 Yes.

20 THE COURT:

21 Q. All right. You've fully discussed this matter with
22 your attorney or attorneys, and including I
23 know your possible defenses to these charges
24 and any-- and all the facts pertaining to this
25 incident, is that correct?

25 A. Yes, that's correct.

26 Q. All right. And the record will reflect that a thirteen
27 person jury has now been selected in the case
28 on a first degree murder charge, and you have
29 discussed this matter also with your family

1 before entering this plea, is that correct?

2 A. Yes.

3 Q. All right. Do you have any prior convictions?

4 A. None.

5 THE COURT:

6 The State supports that?

7 MR. DELAUP:

8 Yes, your Honor. We do not show any

9 prior convictions.

10 THE COURT:

11 Q. And this crime occurred in Jefferson Parish on

12 December the 15th, 1986.

13 MR. REGAN:

14 The State alleges that and we don't

15 disagree, your Honor.

16 THE COURT:

17 I'm changing-- you put in here "'87."

18 I'm changing the "7" to "6".

19 MR. REGAN:

20 Thank you.

21 THE COURT:

22 Q. I'll read you the elements of this crime. "Manslaughter

23 is a homicide which would be murder under

24 Article 30," which is first degree murder,

25 "or Article 30.1," which is second degree

26 murder, "but the offense is committed in

27 sudden passion or heat of blood immediately

28 caused by provocation sufficient to deprive an

29 average person of his self control and cool

reflection. Provocation shall not reduce a

homicide to manslaughter if the jury finds

that the offender's blood had actually cooled

1 or that an average person's blood would have
2 cooled at the time the offense was committed;"
3 or, two, "the homicide committed without any
4 intent to cause death or great bodily harm;
5 A, when the offender is engaged in the per-
6 petration or attempted perpetration of any
7 felony not enumerated in Articles 30 or 30.1,
8 or of any intentional misdemeanor directly
9 affecting the person; or B, when the offender
10 is resisting lawful arrest by means or in a
11 manner not inherently dangerous and the circum-
12 stances are such that the killing would not
13 be murder under Articles 30 or 30.1. Whoever
14 commits manslaughter shall be imprisoned at
15 hard labor for not more than twenty-one years."
16 You've gone over this Statute with your counsel?
17 A. Yes, I have.
18 Q. All right. And you've been explained what hard labor
19 is?
20 A. Yes, I'm aware of it.
21 Q. What does hard labor mean to you?
22 A. It's my understanding that I would be incarcerated
23 in the State institution.
24 Q. That's the Department of Corrections, you understand
25 that?
26 A. Yes.
27 Q. You understand that there is probation, parole or
28 suspension of sentence available for this
29 crime, but the agreement of the Court, you're
to get twenty-one years at hard labor, giving
credit for all time served. That's your
agreement?
A. Yes.

1 Q. Okay. That's what you have agreed to, that's right?
2 A. That's correct, your Honor.
3 THE COURT:
4 All right. Are there any open
5 motions, or pending motions?
6 MR. REGAN:
7 Your Honor, as counsel, there are
8 no open motions at this time or pending
9 motions.
10 THE COURT:
11 Any appeals that you intend to take
12 from the rulings or orders of the Court?
13 MR. REGAN:
14 Not at this time, no, your Honor.
15 THE COURT:
16 Q. All right. Your attorney, Mr. Toppins, has indicated
17 to me he's advised you of your rights as
18 follows: prior to and at a trial for this matter
19 you have a right to assert defects in these
20 proceedings, namely, an illegal arrest, an
21 illegal line-up, an illegal confession and an
22 illegal search and seizure. By entering this
23 plea-- into this plea agreement, you're now
24 waiving and giving up these rights, do you
25 understand that, sir?
26 A. Yes, I understand that.
27 Q. You also have a Constitutional Right to a trial by
28 jury. On the original charge you've got a
29 right to a trial by jury of twelve persons as
well as this charge. The only difference between
first degree murder and the manslaughter charge
is that on a first degree murder, the jury
must be unanimous. On a manslaughter charge,

1 if the State just tried you on that, the jury
2 has to find ten out of twelve to convict you.
3 And when you enter this plea of guilty now,
4 you now waive and give up any further rights
5 to be tried by a jury, do you understand that?
6 A. Yes, I do.
7 Q. On the manslaughter charge, not a first degree murder
8 charge, you have a right to waive a trial by
9 jury. And I, too, can hear your case and find
10 you guilty, not guilty, or guilty of a lesser
11 crime. Same thing with a trial by a jury; they
12 can do the same thing. When you enter this
13 plea of guilty, you're now waiving and giving
14 up those rights, do you understand that?
15 A. Yes.
16 Q. You also have a right to a presumption of innocence, and
17 you've heard me explain this through to this
18 jury for the last two days, and that the
19 State has to prove you guilty beyond a reasonable
20 doubt, and when you enter this plea agreement,
21 you're now waiving and give up any further
22 rights to a presumption of innocence for the
23 State to find you guilty of each element of
24 these charges beyond a reasonable doubt. Do
25 you understand that?
26 A. Yes, I understand that.
27 Q. You have a Constitutional Right to your Fifth Amendment,
28 which is your privilege against self-incrimination.
29 What does that mean to you, sir?
A. Constitutional Right of the Fifth Amendment?
Q. Yes sir.
A. It means that I have the right to remain silent or not

1 to incriminate myself...

2 Q. That's correct.

3 A. ...in any fashion.

4 Q. You don't have to take the witness stand and testify.

5 A. Correct.

6 Q. On the other hand you got a right to waive that privilege,

7 take the witness stand, tell your side of the

8 story. You have a right to present evidence;

9 you've got a right to present defenses to these

10 charges and to subpoena witnesses to come

11 here and testify on your behalf. When you

12 enter this plea agreement now, you're waiving

13 and giving up rights, do you understand that?

14 A. I waive those rights?

15 Q. Yes sir.

16 A. Okay, I understand I waive those rights.

17 Q. All right. You also have a Constitutional Right to

18 confront your accusers; that is, the people

19 who will come in this Court and testify in

20 all likelihood against you, called by the

21 State. The State will examine these people

22 by questioning them and solicit answers from

23 them. Upon the State's completion of their

24 examination of these witnesses, they are then

25 turned over or tendered to you and your counsel.

26 When you've got a right to confront your

27 accusers, what then do you have a right to do?

28 If the State can ask them questions, what do

29 you have a right to do, sir?

30 A. I have also the same right as the State...

31 Q. That's right.

32 A. ...to ask questions and to confront them.

1 Q. That's correct and that means that you've got a
2 right to cross-examine witnesses. And when
3 you enter this plea agreement, you now give
4 up your Constitutional Right to confront
5 your accusers, do you understand that?

6 A. Yes.

7 Q. You have a Constitutional Right to have an attorney
8 to represent you during the appeal and the
9 trial stages of this-- of this matter. When
10 you enter a plea of guilty you have a right
11 to-- I'm sorry, you give up your rights to
12 have your matter heard before the trial court,
13 have an attorney to represent you. You do
14 have a right to appeal. Basically your only
15 appeal, however, is to appeal the jurisdiction
16 of the Court but you tell me this crime took
17 place in Jefferson Parish, and you also have
18 a right to appeal the sentence the Court may
19 impose upon you, but you agree to the sentence,
20 which is twenty-one years. Basically, I don't
21 know what else you can appeal after this but
22 I'm sure that there may be some other doors
23 that are open, but those are basically the
24 main things. And when you enter this plea,
25 you now give up those rights. Do you under-
26 stand that?

27 A. I'm sorry, would you repeat...

28 Q. When you enter your plea, you're giving up your rights
29 to appeal...

30 A. I'm giving up my rights to appeal the sentence?

31 Q. I'm sorry, you're giving up your right to have the
32 matter tried in the District Court. You

1 understand that?

2 A. Oh, okay.

3 Q. You also have a right to appeal and to have an

4 attorney to represent you on that appeal,

5 do you understand that?

6 A. Yes.

7 Q. Basically your appeal is limited to the jurisdiction

8 of this Court. You're telling me this crime

9 took place in Jefferson Parish, is that

10 correct?

11 MR. REGAN:

12 We're stipulating that that is

13 correct, that the crime did occur in Jefferson

14 Parish under the "Alfred" plea, yes.

15 THE COURT:

16 Then your client agrees to that?

17 MR. REGAN:

18 Yes, under "Alfred."

19 THE WITNESS:

20 I'm agreeing...

21 THE COURT:

22 Q. And you also agree to the twenty-one years that the

23 Court is giving him at hard labor?

24 A. Yes.

25 Q. All right. And basically I'm telling you that you

26 don't have too much to appeal after this,

27 once you agree to these basic things, and I'm

28 not saying that there aren't any further

29 rights but I don't know what rights you have

in which to appeal, but you are entitled to

an attorney to appeal, is what I'm telling

you, you understand that, sir?

A. I'm not waiving my right to an attorney, in other words.

1 Q. No sir.
2 A. All right, fine.
3 Q. All right. You also understand that this decision is
4 your decision to enter a plea of guilty?
5 MR. REGAN:
6 Under "Alfred," yes, it is. Under
7 advice of counsel and after going over it
8 extensively with Mr. Toppins, it's his decision
9 to enter a plea of guilty under "Alfred."
10 THE COURT:
11 Q. Do you understand that that is your decision, sir?
12 A. Yes, that is my decision.
13 Q. You understand that it must be voluntary on your
14 part?
15 A. Yes.
16 Q. Do you understand that no one can coerce you or promise
17 you anything or force you to plead guilty or
18 force any member or coerce any member of your
19 family for you to enter this plea of guilty?
20 Do you understand that?
21 A. Yes, I understand.
22 Q. Then has anyone used any force, intimidated you,
23 coerce you or promised you or any member of
24 your family for you to enter this plea of
25 guilty here today, outside of what the Court
26 has told you I'm going to give you in the
27 plea?
28 A. Outside of what the Court has told me?
29 Q. Told you I'm going...
A. No.
Q. ...to give you?
A. No.

1 Q. Okay. Then do you understand by pleading guilty
2 you're now telling this Court you've in
3 fact committed the crime to which you're
4 pleading guilty to?

5 MR. REGAN:

6 Excuse me. With respect to the answer
7 to that response, we are-- we're tendering
8 a plea under the case referred to as "Alfred,"
9 and for that reason we are tendering a plea,
10 your Honor.

11 THE COURT:

12 Well, he understands that he's telling
13 this Court he's committed this crime.

14 MR. REGAN:

15 And that-- he's telling the Court
16 that in his best interest he is pleading
17 guilty, his counsel has reviewed the facts
18 with him and with the District Attorney's
19 office; I've recommended in his best interest
20 to plead guilty and he's pleading guilty under
21 "Alfred."

22 THE COURT:

23 Q. All right, in light of what I've told you, Mister...

24 A. That is true what my lawyer has just stated. I have
25 the same feelings as he.

26 Q. In light of what I've told you, then, how do you
27 want to plead to this charge; guilty or not
28 guilty?

29 MR. REGAN:

He's guilty under "Alfred."

THE WITNESS:

I am pleading guilty under "Alfred."

1 THE COURT:

2 Okay, under the "Alfred" case. The
3 State, tell me what happened.

4 MR. DELAUP:

5 Your Honor, this plea to manslaughter
6 is pursuant to a plea bargain arrangement.
7 The State has alleged and was prepared to
8 that on December 15th, 1986, the defendant
9 did commit the murder of Clyde Simpson, more
10 particularly on Moisant Street in Kenner,
11 at approximately 11:15 or 11:20 on that date.
12 The State would have brought forward evidence
13 to show that as the victim's wife came home,
14 she heard two shots; as she was going to the
15 side door, looked and saw one person running
16 away from the front door with a gun in his
17 hand. In addition to that, the State would
18 also bring forward as a witness, the victim's
19 cousin, Mr. Doyle Simpson, who we allege was
20 at gunpoint taken by the defendant, in the
21 defendant's car, to St. John Parish where he
22 was shot at that time. Not using those facts
23 at this time, we would use Mr. Doyle to identify
24 the defendant as the person who came from the
25 house; showing that he had a significant period
26 of time to look at the defendant. In addition
27 to that, the State would bring forward evidence
28 showing that there were-- there was clothing
29 that was seized from the defendant's residence
that had the blood stains on it, showing the
same blood type as that of the victim. In

1 addition to that the State was prepared to
2 show that another witness by the name of
3 Martin Sylvain was able to place the
4 defenadant near the general area of the
5 crime and identified him in a photographic
6 line-up; further, that the defendant (sic),
7 Doyle Simpson, identified him in a photographic
8 line-up. In addition to that the State would
9 be prepared to show that some bullets or casings
10 were found at the defendant's home of the
11 exact same type that were used in the murder
12 of the victim. In addition to that we would
13 also-- would present-- would've presented
14 evidence that a pre-paid legal services card
15 belonging to the victim was found in the
16 defendant's possession. Those are the facts
17 we'd use to support that charge.

16 THE COURT:

17 Mr. Regan, your client agrees with
18 this?

19 MR. REGAN:

20 Yes sir. We-- I'll state for the
21 record if I could-- my client agrees that
22 had the District Attorney pursued its
23 prosecution that he would have established
24 those facts, or attempted to establish those
25 facts. Having reviewed the testimony of
26 the witnesses as outlined by the District
27 Attorney and having spoken to my client and
28 reviewing the entire Court record, we are--
29 we are not at this point disagreeing with
those facts, and we would accept those facts
as the facts that the District Attorney

1 would have established in a court of law.

2 THE COURT:

3 Okay. All right, Mr. Regan, you...

4 MR. REGAN:

5 Just...

6 THE COURT:

7 ...I'm sorry?

8 MR. REGAN:

9 Just one other thing. We are not
10 agreeing at this point to the accuracy or
11 inaccuracy but agreeing that that is what
12 they would have established in a court of
13 law had they been permitted to pursue their
14 prosecution.

15 THE COURT:

16 Okay. Anything else, Mr. DeLaup?

17 MR. DELAUP:

18 I just have a couple of questions
19 myself.

20 EXAMINATION

21 BY MR. DELAUP:

22 Q. Mr. Toppins, you have had a chance to adequately
23 discuss this with both of your clients-- both
24 of your attorneys, is that right?

25 A. Yes, that's correct.

26 Q. Okay, and you're not under the influence of any drugs
27 right now?

28 A. I stated that earlier, no.

29 Q. That's correct. And you discussed it for a period of
two hours with them and they discussed all the
disadvantages and the advantages of going to

1 trial in this matter, is that...

2 A. I did not discuss it for two hours with my attorneys.

3 Q. I mean-- well, with your wife and your attorneys

4 together, on and off for the last two hours,

5 from approximately nine o'clock to eleven

6 fifteen?

7 A. Excuse me.

8 (THE WITNESS CONFERS WITH HIS COUNSEL)

9 MR. REGAN:

10 I think the correct-- and we'll agree

11 to this, that over a period of two hours, he

12 spoke to both his wife and his two attorneys.

13 The actual breakdown in minutes would be

14 closer to thirty minutes with his wife and

15 the balance of the time with his attorneys,

16 for the record.

17 MR. DELAUP:

18 That's fine.

19 MR. REGAN:

20 We'll agree to that.

21 MR. DELAUP:

22 That's all I'm getting at. Okay.

23 (To the witness) And this is a knowing and

24 intelligent plea that you've just given, is

25 that right?

26 MR. REGAN:

27 Under "Alfred," yes.

28 THE WITNESS:

29 Under "Alfred," yes.

MR. DELAUP:

Okay, I have no further questions.

1 THE COURT:
2 Mr. Regan, you have signed this form?
3 MR. REGAN:
4 I have, your Honor.
5 THE COURT:
6 Q. And Mr. Toppins, you've signed this form?
7 A. Yes, your Honor, I have.
8 THE COURT:
9 All right. Mr. Regan, by signing this
10 form, you acknowledge that you've told
11 your client what his Constitutional Rights
12 are, what rights he is waiving and giving up
13 under the law, and that you find that the
14 defendant is acting knowingly, willingly,
15 intelligently; you know of no further reason,
16 physical or mental, why the defendant should
17 not be deemed competent to enter this plea,
18 is that correct?
19 MR. REGAN:
20 That's correct, your Honor.
21 THE COURT:
22 Q. And Mr. Toppins, you acknowledge that your attorney
23 and the trial judge have gone over and
24 explained to you your Constitutional Rights,
25 what rights you're waiving and giving up,
26 explained to you the nature of the crime to
27 which you are pleading guilty, that you have
28 also been given the opportunity to ask questions
29 in open Court about anything you do not under-
stand, and about all the consequences regarding
your plea of guilty, is that correct?
A. Yes, that's correct.
Q. Do you have anything you want to ask me?

1 A. Not at the present time.
2 Q. Do you have anything you do not understand?
3 A. No.
4 Q. You further acknowledge that you're completely satis-
5 fied with the explanation by your attorneys
6 and the trial judge, is that correct?
7 A. The explanation?
8 Q. The explanation given to you by your attorneys and
9 the trial judge, is that correct?
10 A. Yes.
11 Q. You further acknowledge that your act of pleading
12 guilty is a knowing, intelligent, free and
13 voluntary act on your part; you know that by
14 pleading guilty you admit you committed the
15 said crime; you know that the plea of guilty
16 is more than a confession; it is also a
17 conviction; nothing further remains except for
18 the trial judge to give you punishment, and
19 you waive all delays for sentencing, is that
20 correct?
21 MR. REGAN:
22 Your Honor, there's a multitude of
23 things in there. If I might state and
24 see if my client would confirm...
25 THE COURT:
26 Well, he signed this so I'm just
27 trying to find out...
28 MR. REGAN:
29 Yes sir. Under-- under the provisions
of "Alfred," he has knowingly and voluntarily
entered a plea of guilty under "Alfred," and
for that purpose, the answer would be "Yes,"

1 your Honor.

2 THE COURT:

3 Q. Is that correct then, Mr. Toppins?

4 A. Yes.

5 THE COURT:

6 All right then, the Court will accept
7 his plea. The Court finds that the defendant
8 has acted knowingly, intelligently and volun-
9 tarily; that the defendant is aware of the
10 nature of the crime to which he has pled
11 guilty; that the defendant did in fact
12 commit the said crime; and that the Court
13 finds that there is a factual basis for the
14 defendant to plead guilty to the above-
15 mentioned crime, and although it's been pled
16 under "Alfred," the Court will accept that
17 and I will accept his plea of guilty.

18 MR. REGAN:

19 Thank you, your Honor. One thing further
20 for the record, and we waive delay in sentencing.
21 The thing that I'd like to put on the record,
22 in my discussions with the Assistant District
23 Attorney, Mr. DeLaup, we've agreed-- the
24 District Attorney's office for the Parish of
25 Jefferson will not pursue any further charges
26 in Jefferson Parish stemming from this particular
27 incident; whether it be kidnapping or aggravated
28 battery or anything else of this sort, or
29 theft. There are no other charges pending
nor will there be any charges brought against
my client in the Parish of Jefferson again
from facts surrounding this particular

1 situation.
2 MR. DELAUP:
3 Not the whole situation, your
4 Honor, just the facts that occurred in
5 Jefferson. We're not saying-- we're
6 not giving any commitment not to prosecute
7 or for the St. John's Parish not to prosecute...
8 MR. REGAN:
9 That's my understanding.
10 MR. DELAUP:
11 ...but for all the events that occurred
12 in Jefferson, we will not prosecute any
13 further...
14 THE COURT:
15 All right.
16 MR. DELAUP:
17 ...in connection with that event.
18 THE COURT:
19 Are you ready to be sentenced?
20 MR. REGAN:
21 We'd waive all delays.
22 THE COURT:
23 Okay. You're waiving all delays,
24 is that correct?
25 THE WITNESS:
26 Yes.
27 THE COURT:
28 Then in connection with the waiver
29 of all delays and the plea agreement entered
into with the Court this date, the Court
shall sentence the defendant to twenty-one
years at hard labor, giving him credit for

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all time served. All right, let's bring him
back over here, I want to bring the jury in
and I want to tell the jury what we've done.
I'm going to discharge the jury and I don't
know if you want to relate any of the acts
pertaining to this incident, 'cause they may
want to know that.

(THE COURT THANKS AND DISCHARGES THE JURY)

* * * * *

C E R T I F I C A T I O N

I, Florence Bazajou, Official Court Reporter, do hereby
certify that the foregoing transcript is true and correct, as
taken by me in open Court at Gretna, Louisiana, before the
Honorable Jacob L. Karno, Judge presiding, on August 26th, 1987,
in matter Number 87-0010, entitled "State of Louisiana versus
Horace Toppins, Jr."

Filed 9-17-87.

Florence Bazajou
Florence Bazajou
Official Court Reporter
24th Judicial District Court
Parish of Jefferson
State of Louisiana

ORIGINAL

COURT OF APPEAL,
FIFTH CIRCUIT

IN THE

FILED JUN 28 1988

FIFTH CIRCUIT

C. J. Fitzgerald
CLERK

COURT OF APPEAL

STATE OF LOUISIANA

NO. 87-KA-900

STATE OF LOUISIANA,
Appellee

VERSUS

HORACE TOPPINS, JR.
Appellant

APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 87-10,
DIVISION "J", THE HONORABLE JACOB L. KARNO, JUDGE

ORIGINAL BRIEF ON BEHALF OF HORACE TOPPINS, JR., APPELLANT

BRUCE G. WHITTAKER
24th Judicial District
Indigent Defender Board
211 Derbigny St.
Gretna, Louisiana 70053
Phone: 366-4569

JURISDICTION

This Honorable Court has appellate jurisdiction over this matter by virtue of Article V, Section 10 of the Louisiana Constitution.

RULING COMPLAINED OF

The commitment issued in this case constitutes the ruling complained of and is appended to this brief.

PROCEDURAL CONTEXT

On January 29, 1987, Appellant Horace Toppins, Jr., was indicted for the first degree murder of Clyde Simpson, a violation of La. R.S. 14:30. (R. pp. 3; 12-13). At arraignment on April 8, 1987 he entered a plea of not guilty. (R. p. 5). Numerous pre-trial motions including a motion to suppress physical evidence, were filed and satisfied prior to trial. (R. pp. 6,9; 21-111). The motion to suppress was denied the morning of the first day of trial, August 24, 1987 (R. p. 9). Jury selection was completed on the evening of August 25, 1987. (R. p. 10). On the morning of the third day of trial, Appellant withdrew his former plea of not guilty and by agreement with the state, entered a plea of guilty of manslaughter, a violation of La. R.S. 14:31. (R. pp. 11; 140-142; 146-168). As part of the plea bargain, Appellant was allowed to plead under the provisions of North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970) and received the maximum sentence of twenty-one years at hard labor. (R. pp. 139-142; 167-168). He comes now before this court on direct appeal.

ASSIGNMENT OF ERROR NO. 1

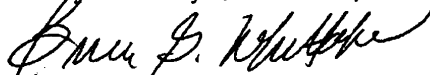
Any error patent on the face of the record.

Appellant urges this court to review the record herein for errors patent. Upon finding such an error, he urges this Court to set aside his sentence and guilty plea and order him released.

CONCLUSION

In the event this court finds an error patent, Appellant's guilty plea and sentence should be set aside and he should be ordered released.

Respectfully submitted,



BRUCE G. WHITTAKER
Staff Appellate Counsel
24th Judicial District
Indigent Defender Board
P.O. Box 9
Gretna, Louisiana 70053
Phone: 366-4569

CERTIFICATE

I hereby certify that a copy of the above and foregoing has been served upon the District Attorney for the Parish of Jefferson.


BRUCE G. WHITTAKER

ORIGINAL

IN THE
FIFTH CIRCUIT COURT OF APPEAL COURT OF APPEAL,
FIFTH CIRCUIT
FOR THE

STATE OF LOUISIANA FILED JUN 29 1988

NO. 87-KA-900

Cliff J. Fitzgerald
CLERK

STATE OF LOUISIANA
APPELLEE

VERSUS

HORACE TOPPINS, JR.
APPELLANT

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT IN AND FOR
THE PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 87-10
DIVISION J, THE HONORABLE JACOB L. KARNO, JUDGE PRESIDING.

BRIEF OF THE STATE OF LOUISIANA, APPELLEE

JOHN M. MAMOULIDES
DISTRICT ATTORNEY
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

GUY DELAUP
ASSISTANT DISTRICT ATTORNEY
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

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COURTHOUSE ANNEX
GRETN, LOUISIANA 70053

IN THE
FIFTH CIRCUIT COURT OF APPEAL
FOR THE
STATE OF LOUISIANA

NO. 87-KA-900

STATE OF LOUISIANA
APPELLEE

VERSUS

HORACE TOPPINS, JR.
APPELLANT

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT IN AND FOR
THE PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 87-10
DIVISION J, THE HONORABLE JACOB L. KARNO, JUDGE PRESIDING.

BRIEF OF THE STATE OF LOUISIANA, APPELLEE

STATEMENT OF THE CASE

The Grand Jurors for the Parish of Jefferson indicted Horace Toppins, Jr., for the first degree murder of Clyde Simpson while in the perpetration of an aggravated burglary. R. 12. On the day set for trial, August 24, 1987, the defense's Motion To Suppress Identification was heard and denied. During the remainder of that day and during the entire following day a jury was chosen to try the case. On the morning of August 26, 1987, in accord with a plea agreement entered into between the State and the accused, and after being fully advised of his Boykin rights, Toppins pled guilty to the amended charge of manslaughter under North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970),* and, waiving all delays, was sentenced to imprisonment at hard labor for twenty-one years, with credit for time served. R. 9-11. His appeal was subsequently lodged in this Honorable Court.

* Under an Alford plea it is not necessary for the accused to admit his guilt if the facts indicate that he is indeed guilty.

ARGUMENT

At the trial of this case the State was prepared to show that on December 15, 1986, Horace Toppins, Jr. murdered Clyde Simpson on Moisant Street in Kenner at approximately 11:20 in the morning, by breaking into the Simpson residence, shooting Clyde Simpson several times in the head, and slashing Simpson's throat.

Elaine Simpson, the murdered man's wife, had just arrived home and was preparing to enter the side door of her residence when she heard two gunshots from inside the house, and shortly thereafter saw an unknown black man, later identified as Horace Toppins, running from the front of the residence holding a blue steel handgun in his hand. Toppins ran toward a yellow Ford Pinto which had pulled up in front of the place soon after her own arrival, the driver of which was her husband's cousin Doyle Simpson, and ordered Doyle Simpson to "Drive." Mrs. Simpson then entered her home, saw her husband lying dead on the floor in a large pool of blood, and called the police.

Meanwhile Toppins had forced Doyle Simpson to drive to a secluded area in Edgard, in St. John Parish, where Toppins handcuffed Doyle Simpson to a tree, shot Simpson in the back and neck, and attempted to drive off, but when the car became stuck in the mud near the scene of the shooting, Toppins was forced to continue his flight on foot, and was subsequently identified by a resident of Edgard, Mr. Martin Sylvain, with whom the accused had attempted to hitch a ride to Kenner. Fortunately Doyle Simpson's neck and back wound were not fatal, and after being found and taken to the hospital he was able to identify a picture of Toppins as his kidnapper and attempted murder.

Martin Sylvain had been asked for a ride to Kenner by Toppins while Mr. Sylvain was at the Texaco Station on Highway 3127 in Edgard between twelve-thirty and one o'clock that day. A little over a week after the commission of these crimes Detective Stephen Caraway of the Kenner Police Department, who was investigating Clyde Simpson's murder, learned from officials at the telephone company that a collect call was made from the pay telephone at the Texaco Station a few minutes before one o'clock on the date of the instant offenses to the Horace Toppins residence at 7318 Alabama Street, New Orleans. When on December 29, 1986, after advising Toppins of the ongoing investigation, Detective Caraway interviewed Toppins at his residence concerning the collect call to his house on December 15, the accused, appearing very nervous, denied knowledge of any such call, but agreed to meet the detective at the Kenner Detective Bureau the following day. Toppins failed to appear, but a photograph of the accused was identified by both Doyle Simpson and Martin Sylvain in separate photographic lineups.

When incriminating evidence was found in Toppins' residence (clothing stained with blood of the victim's type, bullets or casings of the type used to murder Clyde Simpson) Toppins was arrested and charged with first degree murder, aggravated burglary, and simple kidnapping.

It is difficult to see how Horace Toppins has any basis for an appeal except for possible error patent on the face of the record. At the time he pled guilty to manslaughter, Toppins was interviewed in depth by Judge Karno and was thoroughly and repeatedly informed of his Boykin rights, as well as the fact that he would be sentenced to twenty-one years at hard labor with credit for time served, to which sentence he agreed, after waiving all of his rights. See R. 146 et seq.

Of course, Toppins received the maximum sentence for manslaughter, see R.S. 14:31, but through his plea agreement with the State he avoided the possibility of receiving a sentence of death or imprisonment for life without benefit of parole, probation, or suspension of sentence, and unreservedly agreed to this twenty-one year sentence when he entered his plea of guilty to manslaughter. See State v. Lanclos, 419 So.2d 475 (La. 1982) (Where offense to which accused pled guilty inadequately described his conduct, the trial court did not abuse its discretion in imposing maximum sentence possible for crime to which he pled guilty, where a significant reduction in potential exposure to punishment had been obtained through plea bargaining, and the offense involved violence to the victim; State v. Sclafini, 489 So.2d 384 (La.App. 5th Cir. 1986) (Accused who had through a plea bargain been allowed to plead to a reduced charge could not complain of excessiveness of his sentence where he had entered the plea agreement with knowledge of the sentence he would receive).

Further, the State believes that no patent error exists in the present record.

Code of Criminal Procedure Article 920 provides: "(t)he following matters and no others shall be considered on appeal: (1) An error designated in the assignment of errors; and (2) An error that is discoverable by a mere inspection of the pleadings and proceedings and without inspection of the evidence."

For the purpose of an error patent review, the "record" in a criminal case includes the caption, the time and place of holding court, the indictment or information and the endorsement thereon, the arraignment, the plea of the accused, the bill of particulars filed in connection with a short form indictment or information, the mentioning of the impaneling of the jury, the minute entry reflecting sequestration in a capital case, the verdict, and the judgment or sentence. See State v. Oliveaux, 312 So.2d 337 (La. 1975).

Where the conviction has been obtained by a plea of guilty, the issue of whether the accused was properly "Boykinized" also constitutes a proper inquiry in an error patent review. State v. Godejohn, 425 So.2d 750, 751 (La. 1983); State v. Martinez, 472 So.2d 123 (La. App. 5th Cir. 1985).

The transcript of the plea colloquy reflects that Judge Karno advised Toppins of his right (1) to a trial by jury; (2) to confront his accusers; and (3) to remain silent, as required by Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). The accused acknowledged that he understood his rights and expressed a desire to waive them. The "Waiver of Rights on Entry of a Plea of Guilty" form, which appears in the record, likewise indicates that Toppins was informed of, and voluntarily waived, the aforementioned rights. R. 140-142.

Therefore, the State submits that no error occurred in the proceedings below.


CONCLUSION

The State of Louisiana respectfully asks this Honorable Court to affirm the conviction and sentence of Horace Toppins, Jr.

Respectfully submitted,

JOHN M. MAMOULIDES
DISTRICT ATTORNEY
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

GUY DELAUP
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GRETN, LOUISIANA 70053

500 So.2d 412
(Cite as: 500 So.2d 412)

Supreme Court of Louisiana.
STATE of Louisiana
v.
Horace TOPPINS.
No. 87-KK-0177.

Jan. 22, 1987.

In re Toppins, Horace; applying for writ of certiorari and/or review; Parish of Jefferson,***413** 24th Judicial District Court, Div. "F", No. 87-10; to the Court of Appeal, Fifth Circuit, No. 87-K-45.

Granted. Grand jury proceedings are stayed until completion of preliminary examination.

La. 1987.
State v. Toppins
500 So.2d 412

END OF DOCUMENT

STATE OF LOUISIANA, PARISH OF JEFFERSON
24th Judicial District Court

State of Louisiana
VS.

No. 87-0010

Horace Toppins, Jr.

Division "M"

Date January 29, 1987

DISTRICT ATTORNEY Ann Lambert

JUDGE Robert J. Burns

10th. Partial Report

of

The Grand Jury

The grand jury appeared in open court this day all jurors were present except Lynn Sanders the other jurors through their foreman handed in the following partial report.

No. 87-0010

The State of Louisiana

vs.

Horace Toppins, Jr.

Indictment For

First Degree Murder

R.S. 14:30

A TRUE BILL

7s/ William J. Landry.,

Foreman of the Grand jury.

Parish of Jefferson

On motion of Ann Lambert, Asst. Dist. Atty. representing the state it is ordered by the court that the findings of the grand jury be recorded on the minutes of the court and the indictments brought in by the grand jury be filed with the clerk of the court and the accused whom a A TRUE BILL was found be brought in to court instantly on attachment to be arraigned and those whom a NO TRUE BILL was brought in be discharged and their bonds cancelled if any.

STATE OF LOUISIANA, PARISH OF JEFFERSON
24th Judicial District Court

State of Louisiana
VS.

No. 87-10
Division "J"
Date AUGUST 24, 1987
CR: BAZAJOU

DISTRICT ATTORNEY DE LAUP JUDGE KARNO

THE DEFENDANT HORACE TOPPINS APPEARED BEFORE THE BAR OF THE COURT THIS DAY REPRESENTED BY WILLIAM WHITNEY AND MARTIN REGAN , ATTORNEYS.
THE COURT TOOK UP THE OPEN MOTION TO SUPPRESS DIENTIFICATION:
S/W
DOYLE SIMPSON

MATTER HEARD AND SUBMITTED, COURT DENIED THE MOTION.

ALL MOTIONS SATISFIED.

AT THE HOUR OF 1:45 P.M. THE COURT TOOK THE ABOVE ENTITLED MATTER FOR TRIAL FOR THE CHARGE OF R. S. 14:30 FIRST DEGREE MURDER.

PRESENT WERE:

HORACE TOPPINS	DEFENDANT
WILLIAM WHITNEY	DEFENSE COUNSEL
MARTIN REGAN	DEFENSE COUNSEL
GUY DE LAUP	ASSISTANT DISTRICT ATTORNEY FOR THE STATE

SELECTION OF THE JURY :

DEMENTRA ALEXANDER	EXCUSED PREREMPTORY BY THE STATE
ROY ADAMS	EXCUSED FOR CAUSE
MELISSA BOWMAN	EXCUSED FOR CAUSE
DANIEL DEBAUTTE, JR.	EXCUSED PEREMPTORY BY DEFENSE
DANA DIAS	EXCUSED PEREMPTORY BY DEFENSE
GARY P. LEONARD	A C C E P T E D
HENRY GLASPER	EXCUSED PEREMPTORY BY THE STATE
LESTER BENSON, JR.	EXCUSED PEREMPTORY BY THE DEFENSE
TIMMY M. LIRETTE	EXCUSED PEREMPTORY BY THE DEFENSE
GEORGE WARREN	EXCUSED PEREMPTORY BY THE STATE
RODERICK W. ALLEN	EXCUSED PEREMPTORY BY THE STATE
DENNIS L. SWITZER	A C C E P T E D
GLENDA B. WILLIAMS	EXCUSED CAUSE
CLAUDIUS DOWDLE, JR.	EXCUSED PEREMPTORY BY THE DEFENSE
RAYMOND DELACERDA	EXCUSED PEREMPTORY BY THE DEFENSE
SHELITHA DOMINIC	EXCUSED PEREMPTORY BY THE STATE
BERNETHA WALTERS	EXCUSED FOR CAUSE
ANTHONY L. GELLER	EXCUSED PEREMPTORY BY THE DEFENSE

AT THE HOUR OF 6:55 P.M. THE COURT RECESSED FOR THE DAY UNTIL 8:30 A.M. AUGUST 25, 1987.
JURORS AND PROSPECTIVE JURORS ADMONISHED AS TO THE RULES OF SEQUESTRATION.

THE DEFENDANT WAS REMANDED.

MINUTES
SEP 10 1987

Entry No. 9

Marion Leary
DEPUTY CLERK

STATE OF LOUISIANA, PARISH OF JEFFERSON
24th Judicial District Court

State of Louisiana
VS.

No. 87-10

Division "J"

HORACE TOPPINS

Date AUGUST 25, 1987

CR: BAZAJOU

DISTRICT ATTORNEY DE LAUP

JUDGE KARNO

AT THE HOUR OF 8:40 A.M. THE COURT TOOK UP THE OPEN CASE #87-0010.

PRESENT WERE:

HORACE TOPPINS

DEFENDANT

WILLIAM WHITNEY

COUNSEL FOR THE DEFENSE

MARTIN REGAN

COUNSEL FOR THE DEFENSE

GUY DE LAUP

ASSISTANT DISTRICT ATTORNEY FOR THE STATE

SELECTION OF THE JURY CONTINUED:

ALBERT C. GAUTHREAU

EXCUSED PEREMPTORY BY THE DEFENSE

LIZZIE G. LEWIS

EXCUSED FOR CAUSE

NORMAN P. PERTUIT, SR.

EXCUSED FOR CAUSE

MARY S. ALLEN

EXCUSED FOR CAUSE

LEONCE P. OUGEL, JR.

EXCUSED PEREMPTORY BY THE STATE

GARY L. PERRIEN

EXCUSED PEREMPTORY BY THE DEFENSE

WINNIE L. SOULE

A C C E P T E D

SHIRLEY S. DITTA

A C C E P T E D

JEFFREY P. GUILLOT

A C C E P T E D

GERARD J. BOYER

EXCUSED FOR CAUSE

MELVIN R. WILLIAMS

EXCUSED PEREMPTORY BY THE STATE

JIMMIE J. BREAUX

EXCUSED PEREMPTORY BY THE STATE

MARCUS A. ELLINGTON

EXCUSED FOR CAUSE

AT THE HOUR OF 12:00 NOON THE COURT RECESSED FOR LUNCH.

AT THE HOUR OF 1:20 P.M. SELECTION OF THE JURY CONTINUED.

DEBRA LEA DESILVA

A C C E P T E D

ROSE C. BEARD

EXCUSED FOR CAUSE

LINDA G. BUSH

EXCUSED FOR CAUSE

THERESA P. KLIEBERT

EXCUSED FOR CAUSE

WILLIE BIRDEN, JR.

EXCUSED PEREMPTORY BY THE STATE

JOSEPH L. OLIVIO, JR.

A C C E P T E D

MARION C. BOURGEOIS

A C C E P T E D

THOMAS F. ODOM

EXCUSED PEREMPTORY BY THE DEFENSE

STEVEN J. LILJBERG

A C C E P T E D

CLAIRE ESCHETTE

EXCUSED FOR CAUSE

EULA F. ORGERON

EXCUSED FOR CAUSE

CRAIG A. BOUDREAUX

EXCUSED PEREMPTORY BY THE DEFENSE

LOUIS BRIDEVAUX

A C C E P T E D

CHAD K. BYRD

EXCUSED FOR CAUSE

RAJ PANDIAN

EXCUSED PEREMPTORY BY THE STATE

GEOFFREY E. EUSTIS

EXCUSED PEREMPTORY BY THE STATE

JOHN A. BELL, JR.

A C C E P T E D

KAREN ANN DE POORTER

EXCUSED PEREMPTORY BY THE DEFENSE

JAMES L. PARKER, II

A C C E P T E D

NANCY P. CLAY

EXCUSED FOR CAUSE

GARVIN J. LEFORT

EXCUSED PEREMPTORY BY THE STATE

WILLIAM H. JOHNSON

A C C E P T E D ALTERNATE

MICHAEL CANGELOSI, JR.

EXCUSED FOR CAUSE

BYRNES T. CARRIERE, JR.

EXCUSED PEREMPTORY BY THE STATE

CONNIE A. LEE

EXCUSED FOR CAUSE

AT THE HOUR OF 8:20 P.M. THE COURT RECESSED FOR THE DAY UNTIL AUGUST 26, 1987 @ 9:00 A.M.

DEFENDANT REMANDED TO THE PARISH PRISON.

ON MINUTES

SEP 1 0 1987

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Entry No. 10

DEPUTY CLERK

STATE OF LOUISIANA, PARISH OF JEFFERSON

24th Judicial District Court

State of Louisiana

VS.

No. 87-10

Division "J"

HORACE TOPPINS

Date AUGUST 26, 1987

CR: BAZAJOU

Pg 3
DISTRICT ATTORNEY

DE LAUP

JUDGE

KARNO

AT THE HOUR OF 11:17 A.M. THE COURT TOOK UP THE OPEN CASE #87-0010.

PRESENT WERE:

HORACE TOPPINS

DEFENDANT

WILLIAM WHITNEY

COUNSEL FOR THE DEFENSE

MARTIN REGAN

COUNSEL FOR THE DEFENSE

GUY DE LAUP

ASSISTANT DISTRICT ATTORNEY FOR THE STATE

SELECTED JURORS

GARY P. LEONARD

DENNIS L. SWITZER

WINNIE L. SOULE

SHIRLEY S. DITTA

JEFFREY R. GUILLOT

DEBRA LEA DESILVA

JOSEPH L. OLIVIO, JR.

MARION L. BOURGEOIS

STEVEN J. LILJBERG

LOUIS BRIDEVANT

JOHN A. BELL, JR.

JAMES L. PARKER, II

WILLIAM H. JOHNSON (ALTERNATE)

OUT OF THE PRESENCE OF THE JURY THE DEFENDANT WITHDREW HIS FORMER PLEA OF NOT GUILTY AND TENDERED TO THE STATE A PLEA OF GUILTY TO R.S. 14:31 MANSLAUGHTER (UNDER ALFRED CASE). THE DEFENDANT WAIVED THE READING OF THE INDICTMENT AND THE PLEA WAS ACCEPTABLE TO THE STATE. THE COURT ADVISED THE DEFENDANT OF ALL OF HIS RIGHTS, INCLUDING HIS RIGHT TO A TRIAL BY JURY, HIS RIGHT TO CONFRONT HIS ACCUSERS AND HIS RIGHT AGAINST SELF INCRIMINATION AND THE DEFENDANT ACKNOWLEDGED THAT HE UNDERSTOOD. THE DEFENDANT WAIVED THESE RIGHTS AND A WAIVER OF RIGHTS WAS EXECUTED AND FILED INTO THE RECORD. THE DEFENDANT WAIVED ALL LEGAL DELAYS AND REQUESTED IMMEDIATE SENTENCING.

THE COURT SENTENCED THE DEFENDANT TO IMPRISONMENT AT HARD LABOR FOR THE TERM OF

TWENTY ONE (21) YEARS IN CONFORMITY WITH L.S.A.-R.S. 15:824.

THE DEFENDANT TO BE GIVEN CREDIT FOR TIME SERVED.

AT THE HOUR OF 12:00 NOON THE COURT DISMISSED THE JURY AND THE COURT RECESSED FOR THE DAY.

THE DEFENDANT WAS REMANDED.

ON MINUTES
SEP 10 1987

Entry No. 11

DEPUTY CLERK

Twenty-Fourth Judicial District Court of Louisiana

THE STATE OF LOUISIANA

Parish of JEFFERSON

SS.

Twenty-Fourth Judicial District

Twenty-Fourth Judicial District Court

The Grand Jurors of the State of Louisiana, duly empaneled and sworn, in and for the body of the Parish of JEFFERSON in the name and by the authority of the said State, upon their Oath, present: That one

HORACE TOPPINS, JR.

late of the Parish of JEFFERSON on or about the FIFTEENTH (15th) day of DECEMBER in the year of our Lord, One Thousand Nine Hundred and EIGHTY-SIX (1986) with force of arms, in the Parish of JEFFERSON aforesaid, and within the jurisdiction of the Twenty-Fourth Judicial District Court of Louisiana, in and for the Parish of JEFFERSON aforesaid, then and there being committed first degree murder of Clyde Simpson while in the perpetration of an Aggravated Burglary,

*Aimed & Manslaughter
under R.P. 14:31*

Lgt

8/26/87

contrary to the form of the Statute of the State of Louisiana, in such case made and provided, and against the peace and dignity of the State.

Anne Lambert

ASST. District Attorney of the Twenty-Fourth Judicial District.

Witnesses for the State

January 29, 1987 INDICTMENT Filed
Deputy Clerk: *Cavella. Mare*

No. 87-0010

The State of Louisiana

VS.

35
HORACE TOPPINS, JR. (JPCC)

INDICTMENT FOR

FIRST DEGREE MURDER

R. S. 14:30

A TRUE BILL

William J. Landry

Foreman of the Grand Jury,
Parish of Jefferson

January 29, 1987

STATE OF LOUISIANA

NO. 87-10

VS.

Horace Joppins
N/m

24TH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

ORDER

IT IS ORDERED by the Court that a bail or appearance bond in the sum of Two Hundred Fifty Thousand (\$250,000) DOLLARS, returnable WHEN NOTIFIED, be and the same is hereby fixed in the matter of the above defendant, who is being held on the charge of First Degree Murder
BURGLARY, KIDNAPPING said bond to be taken and the surety thereon approved by the Sheriff of this Parish or one of his deputies, in accordance with law.

GRETN, LOUISIANA, Jan. 22 1987.

c/c

ON MINUTES
JAN 27 1987

Horace W. Joppins
JUDGE

20



CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA



SEARCH WARRANT

Item _____

ORDER OF SEARCH

TO: THE SUPERINTENDENT OF THE NEW ORLEANS DEPARTMENT OF POLICE
and/or HIS DESIGNATED REPRESENTATIVES.

AFFIDAVIT(S) HAVING BEEN MADE BEFORE ME BY Det. Michael Rice
of the New Orleans Police Department and Det. Stephen Caraway of the Kener P.I.

THAT he has good reason to believe that on or in the
(premises)(person)(vehicle) located at 7318 Alabama St., New Orleans,
LA.

within the Parish of Orleans, State of Louisiana as more fully
described in the application for this warrant, there is now being
concealed certain property, namely, a Pellerin-Milnor Corp. paycheck
made payable to Robert Campbell in the amount of \$80.00; one brown leather
jacket, one unknown make 9mm semi-automatic handgun, unknown brand handcuffs
and handcuff keys, 9mm bullets and casings

WHICH said property constitutes evidence of the commission
of a crime or offense against the Laws of the State of Louisiana set
forth in the Louisiana Revised Statutes, and as I am satisfied from
the affidavit(s) submitted in support of the application for this
warrant that there is probable cause to believe that the aforesaid
property is being concealed on the (premises)(person)(vehicle) above
described, and that the aforesaid grounds for the issuance of this
search warrant exist;

YOU ARE HEREBY ORDERED to search forthwith the aforesaid
(premises)(person)(vehicle) for the property specified, serving this
search warrant and making the search, and if the property be found
there, to seize it, leaving a copy of this warrant and a receipt for
the property seized, to make your written return on this warrant
including a written inventory of the property seized and to bring
the said seized property into the court (before the judge, the clerk
the sheriff, or any court officer who usually acts as the custodian)
within ten (10) days of this date as required by law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search during the daytime or the nighttime and if the
property herein described be found on the (premises)(person)(vehicle)
herein described to seize said property in accordance with law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search on a Sunday and if the property herein described
be found on the (premises)(person)(vehicle) herein described to seize
said property in accordance with law.

THIS WARRANT MADE IN DUPLICATE ORIGINAL, NEW ORLEANS, LOUISIANA,

THIS 2nd DAY OF January, 1987.

JUDGE, SECTION "M-5"
CRIMINAL DISTRICT COURT

COPIES:

- Original - Unit File
- 1st Copy - Judge signing Warrant
- Copy - Person upon whom Warrant is served
- Copy - District Attorney
- Copy - Record Room
- Copy - Judge signing Warrant when making Return

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

APPLICATION FOR SEARCH WARRANT

BEFORE ME, the undersigned Judge of the Criminal District Court, Parish of Orleans, State of Louisiana, personally came and appeared: Det. Michael Rice of the New Orleans Police Department and
Det. Stephen Caraway of the Kenner Police Department
 employed by the New Orleans Department of Police, 715 South Broad Street, New Orleans, Louisiana,

WHO, after being duly sworn by me, deposed and said:

THAT a search warrant should be issued for the search of the following described (premises) (~~person~~) (~~vehicle~~) two story townhouse constructed of red brick (lower level), tan siding (upper level). Front door of residence is brown in color and faces Alabama St.

Municipal Number: 7318 Alabama St., New Orleans, La.

Type of Occupancy (Residence) (~~Commercial~~) (~~Vehicle~~) Residence

Structure: Single family dwelling

Number of Stories: Two

Apartment Number: N/A

FOR the purpose of seizing the following described property:

One Pellerin-Milnor Corporation Paycheck, made payable to Robert Campbell in the
amount of \$80.00

One Brown Leather Jacket

One unknown make 9mm semi-automatic handgun

Unknown brand handcuffs and handcuff keys

9mm bullets or casings

THE reasons and facts for the request of this search warrant are:

On December 15, 1986 at approximately 1129 hours, Patrolman Sandy Gallagher of the Kenner Police Department was dispatched to 1504 Moisant St., Kenner, La., in reference to a shooting. Upon arriving at the residence, Ptn. Gallagher was met by a negro female who identified herself as Elaine Simpson. Mrs. Simpson stated that she had just arrived home when she heard what sounded like two gunshots from inside her residence. She stated that she was preparing to enter the side door of her residence when she heard the gunshots. Shortly after hearing the shots she observed an unknown black male running from the front of her residence. The black male was holding a blue steel handgun in his hand. She stated that the black male ran towards a yellow Ford Pinto which had pulled up in front of her residence shortly after her arrival. Mrs. Simpson stated that she recognized the driver of the Ford Pinto to be her husband's cousin, Doyle Simpson. She stated that as the black male approached the vehicle, he pointed the gun at Doyle and yelled, "Drive." She stated that as Doyle drove away from the residence she entered the house through a side door, located on the south side of the residence. Upon entering

Reasons and Facts.....(continued)


the residence she observed her husband, Clyde Simpson, lying on the kitchen floor. She observed what appeared to be a large pool of blood beneath her husband's head. She called to her husband, but received no response. She stated that after seeing her husband she exited the residence and drove to the Tastee Donut Shop, located in the 2100 block of Airline Hwy. in Kenner. Upon arriving at the Tastee Donut Shop, she called the police from a pay telephone, located in front of the donut shop. After calling the police, she returned to her residence at which time she entered through the side door, walked into her bedroom and called the police again. During the second call, the police arrived at her residence at which time she explained what had occurred.

At approximately 1138 hours, Det. Stephen Caraway of the Kenner Police Department arrived at 1504 Moisant St. Det. Caraway met with Ptn. S. Gallagher who was present at the location. Patrolmen L. Tusa and C. Ortiz of the Kenner Police Department were also present. Ptn. Gallagher stated that she had arrived at the residence at approximately 1131 hours. Shortly after her arrival, Ptn. Tusa and Ortiz arrived. Upon entering the residence, through the south side door, she observed a negro male, identified as Clyde Simpson, lying on the kitchen floor. It appeared that his throat had been slashed. Ptn. Gallagher also observed what appeared to be a gunshot wound to the right side of Clyde Simpson's head. As Ptn. Gallagher checked the kitchen of the residence, Ptn. Tusa and Ortiz checked the remaining interior of the residence. After checking the residence, Ptn. Gallagher, Tusa and Ortiz secured the crime scene.

After speaking with Ptn. Gallagher, Det. S. Caraway entered the residence through the south side door. Upon entering the residence, he observed that the doorjamb had been broken from the frame of the door. The door frame was also observed to have been cracked appearing as if the door had been forcibly opened. After checking the door frame, he entered the residence. The kitchen of the residence was located to the left side of the doorway. Lying on the floor was a negro male identified as Clyde Simpson. Det. S. Caraway observed a large slash wound to the left side of Clyde Simpson's neck. It appeared that he had also sustained several gunshot wounds to the right side of his head. Det. S. Caraway observed two double edged razor blades lying on the kitchen counter top. A red bloodlike substance was observed on the razor blades.

At approximately 1244 hours, Jefferson Parish Coroner's Office Investigator Bill Donovan arrived at 1504 Moisant St. The Coroner's Office had been contacted by Ptn. Gallagher after East Jefferson Ambulance Technicians Perkins and Jones, having arrived at the

signs from Clyde Simpson. Upon Investigator Donovan's examination, it was learned that Clyde Simpson had received an apparent slash wound to the left side of his neck as well as three or four gunshot wounds to the right side of his head. A gunshot wound to Clyde Simpson's stomach was also observed. Upon moving the body of Clyde Simpson, Det. S. Caraway observed a white towel, filled with ice cubes, under his neck. Also lying near his head was four R.P. Luger, 9mm casings.


Det. S. Caraway NPD
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

Reasons and Facts.....(continued)

After the scene of the homicide was processed by Jefferson Parish Sheriff's Office Crime Scene Technician R. Savoir, Det. S. Caraway departed 1504 Moisant St. and proceeded to the Kenner Detective Bureau.

At approximately 1450 hours, Det. S. Caraway was contacted by Detective Vernon Bailey of the St. John Parish Sheriff's Office. Detective Bailey stated that his office was investigating a shooting that occurred in Edgard, La. Edgard is located on the westbank of the river in St. John the Baptist Parish. He stated that the victim of the shooting, Doyle Simpson, had been shot once in the back and once in the neck. Detective Bailey stated that their investigation had revealed that Doyle Simpson had been driven to a secluded area in Edgard where he was handcuffed to a tree and shot. Doyle Simpson's vehicle, a yellow Ford Pinto, was found to be stuck in the mud near the scene of the shooting. Detective Bailey stated that a suspicious black male was seen near the scene of the shooting, shortly after it occurred. Mr. Martin Sylvain, a resident of Edgard, La., reported having been stopped by a suspicious black male who was attempting to hitchhike to Kenner. Detective Bailey requested that this detective meet him at the St. John Sheriff's Office Detective Bureau, concerning the shooting that occurred in Edgard.

At approximately 1540 hours, Det. S. Caraway arrived at the St. John Parish Sheriff's Office. Mr. Martin Sylvain, having arrived shortly after him, was interviewed concerning his being stopped by the suspicious black male. He stated that between 1230 and 1300 hours he arrived at the Texaco Station, located on Highway 3127, in Edgard. Upon driving up to the gas pumps, he was approached by a black male who asked him for a ride to Kenner. The black male stated that his friends car had broken down nearby and he needed to get back to Kenner by 1400 hours. Mr. Sylvain stated that when he refused to give the black male a ride to Kenner, the black male offered to pay him twenty dollars for the ride. Mr. Sylvain stated that he still refused to give the black male a ride to Kenner. Mr. Sylvain described the black male as being in his late twenties, 5'11" tall, approximately 175 lbs. Mr. Sylvain stated that the black male was light complexioned and had pimples or freckles on his face. The black male's eyes were described as being "sleepy looking." His hair and beard were described as having a reddish tint. The only clothing Mr. Sylvain recalled was a brown leather jacket. Mr. Sylvain stated that when he departed the Texaco Station, the black male was using the pay telephone, located in front of the business.

On December 17, 1986 at approximately 1010 hours, Det. S. Caraway arrived at River Parishes Medical Center, located in St. John Parish.

Medical Center, assisted this detective in compiling a composite depicting a likeness of the black male that kidnapped and shot him on December 15, 1986. He described the black male as being in his late thirties, approximately 6'0" tall, medium build and having a reddish complexion. He described the black male as having dark pimples or freckles on his face. The black male's beard and hair were described as having a reddish tint. Mr. Simpson stated that prior to being shot, the black male stole his wallet, containing approximately \$40.00


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " "

Reasons and Facts.....(continued)

in U.S. Currency and a check in the amount of \$80.00. The check was made payable to his step-brother, Robert Campbell. He stated that the check was a payroll check from Pellerin-Milnor Corporation.

On December 24, 1986 at approximately 1000 hours, Det. S. Caraway was contacted by Mr. Richard Rose of South Central Bell Telephone Security. Det. S. Caraway had contacted Mr. Rose on an earlier date and requested that he check the pay telephone number at the Texaco Station in Edgard concerning any collect calls that may have been made between the hours of 1230 and 1300 on December 15, 1986. Mr. Rose stated that his check of the telephone number revealed that a collect call was made from the pay telephone at the Texaco Station on December 15, 1986 at 1254 hours. The call was made to the Horace Toppins residence, located at 7318 Alabama St., New Orleans, La.

On December 29, 1986 at approximately 1230 hours, Det. S. Caraway arrived at 7318 Alabama St. Mr. Toppins, present at the residence was advised of the investigation being conducted. Mr. Toppins stated that he had no knowledge of any collect calls made to his house on December 15, 1986. Mr. Toppins, appearing very nervous, was requested to meet this detective at the Kenner Detective Bureau on December 30th to continue the interview. He agreed.

On December 30, 1986 Det. S. Caraway called the residence of Horace Toppins. Mrs. JoAnn Toppins, the wife of Horace Toppins, was requested to have Mr. Toppins contact Det. S. Caraway concerning the investigation. She stated that her husband was working at their business, however she would give him the message. Although several messages were left at the Toppins' residence, Det. S. Caraway received no response from Mr. Horace Toppins.

On December 31, 1986 at approximately 1440 hours, Det. S. Caraway and Detective Vernon Bailey of the St. John Parish Sheriff's Office, arrived at the residence of Martin Sylvain. A photographic line-up, consisting of six black and white photographs depicting black males was displayed to Mr. Sylvain. One of the photographs displayed in the photographic line-up was of Mr. Horace Toppins. Mr. Sylvain viewed the six photographs and pointed to the photograph of Mr. Horace Toppins. Mr. Sylvain stated that the black male depicted in the photograph was the same black male that offered to pay him twenty dollars to drive him to Kenner on December 15, 1986 at approximately 1300 hours.

On January 1, 1987 at approximately 1120 hours, Det. S. Caraway and Detective Sergeant James Gallagher arrived at Route 1, Box 242A, Winona, Mississippi, the residence of Doyle Simpson. Doyle Simpson

released from River Parishes Medical Center. A photographic line-up consisting of six black and white photographs depicting black males was displayed to Mr. Simpson. One of the photographs depicted in the line-up was of Horace Toppins. After viewing the photographic line-up, Mr. Simpson pointed to the photograph of Horace Toppins and stated that he was the person that kidnapped and shot him on December 15, 1986.


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,

19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

Reasons and Facts.....(continued)

Based on the foregoing information and facts, this office respectfully request that a search warrant be issued for the residence bearing municipal address 7318 Alabama St., New Orleans, La., and prays that said search include daytime, nighttime, Sundays as well as holidays. The objects of the search are: one Pellerin-Milnor Corporation paycheck, made payable to Robert Campbell in the amount of \$80.00; one brown leather jacket; one unknown make 9mm semi-automatic handgun; 9mm bullets or casings and unknown brand handcuffs and handcuff keys.

[Signature]
Det. S. Caray WPD
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,

19 87, AT NEW ORLEANS, LOUISIANA

[Signature]
JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION 17-5

1:05 A.M.

RETURN ON SEARCH WARRANT

At 0130 hrs. 0 Clock on 2 January 19 87,
I, the undersigned member of the New Orleans Department of Police,
executed the foregoing SEARCH WARRANT as follows: I searched the
residence described in the said SEARCH WARRANT, and I left a
copy of the said SEARCH WARRANT with:

JoAnn Toppins (wife of Horace Toppins)
together with a receipt for the items seized.

THE following is an inventory of property seized pursuant to
the said foregoing SEARCH WARRANT:

1 Brown Leather Coat, Size 40, unknown brand

2 R.P. Luger 9mm rounds

1 .32 caliber S&W round

8 Photographs of Horace Toppins (photographs depicted bruises on body)

Names of Persons Arrested:

Horace Toppins, N/M, 10/11/50 7318 Alabama St., New Orleans, La.

Arrested on City of Kenner Warrant charging him with First Degree Murder

Aggravated Burglary and Simple Kidnapping

Names of Persons Wanted:

Det. Stephen Caraway THIS inventory was made in the presence of: Detective
Stephen Caraway, Kenner Police Dept. AND Det. Sgt. J. Gallagher, Kenner Police Dept.

THIS RETURN MADE IN DUPLICATE ORIGINAL THIS 3rd DAY OF
January 19 87, NEW ORLEANS, LOUISIANA.....

Detective Michael Rice Homicide
Badge No: N.O.P.D.
NEW ORLEANS DEPARTMENT OF POLICE

COPIES:

- Original - Unit file
- 1st Copy - Judge signing Warrant
- Copy - Person upon whom Warrant is served
- Copy - District Attorney
- Copy - Police Record Room



CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA



SEARCH WARRANT

Item _____

ORDER OF SEARCH

TO: THE SUPERINTENDENT OF THE NEW ORLEANS DEPARTMENT OF POLICE
and/or HIS DESIGNATED REPRESENTATIVES.

AFFIDAVIT(S) HAVING BEEN MADE BEFORE ME BY Det. Michael Rice of
the New Orleans Police Department and Det. Stephen Caraway of the Kenner P.D.

THAT he has good reason to believe that on or in the
~~(premises)(person)~~(vehicle) located at 7813 Alabama Ave., New Orleans, LA.
a 1980 Buick Regal, 2 dr., LA. Lic. plate #808B466 & VIN #4M47AAH120350
within the Parish of Orleans, State of Louisiana as more fully
described in the application for this warrant, there is now being
concealed certain property, namely, a Pellerin-Milnor Corp. paycheck made payable to
Robert Campbell in the amount of \$80.00, one brown leather jacket, one unknown make 9mm
semi-automatic handgun, unknown brand handcuffs and handcuff keys, 9mm bullets and casings

WHICH said property constitutes evidence of the commission
of a crime or offense against the Laws of the State of Louisiana set
forth in the Louisiana Revised Statutes, and as I am satisfied from
the affidavit(s) submitted in support of the application for this
warrant that there is probable cause to believe that the aforesaid
property is being concealed on the (premises)(person)(vehicle) above
described, and that the aforesaid grounds for the issuance of this
search warrant exist;

YOU ARE HEREBY ORDERED to search forthwith the aforesaid
(premises)(person)(vehicle) for the property specified, serving this
search warrant and making the search, and if the property be found
there, to seize it, leaving a copy of this warrant and a receipt for
the property seized, to make your written return on this warrant
including a written inventory of the property seized and to bring
the said seized property into the court (before the judge, the clerk
the sheriff, or any court officer who usually acts as the custodian)
within ten (10) days of this date as required by law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search during the daytime or the nighttime and if the
property herein described be found on the (premises)(person)(vehicle)
herein described to seize said property in accordance with law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search on a Sunday and if the property herein described
be found on the (premises)(person)(vehicle) herein described to seize
said property in accordance with law.

THIS WARRANT MADE IN DUPLICATE ORIGINAL, NEW ORLEANS, LOUISIANA,

THIS 2nd DAY OF January 19 87.


JUDGE, SECTION "A-5"
CRIMINAL DISTRICT COURT

COPIES:

- Original - Unit File
- 1st Copy - Judge signing Warrant
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- Copy - District Attorney
- Copy - Record Room
- Copy - Judge signing Warrant when making Return

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

APPLICATION FOR SEARCH WARRANT

BEFORE ME, the undersigned Judge of the Criminal District Court, Parish of Orleans, State of Louisiana, personally came and appeared: Det. Michael Rice of the New Orleans Police Department and Det. Stephen Caraway of the Kenner Police Department employed by the New Orleans Department of Police, 715 South Broad Street, New Orleans, Louisiana,

WHO, after being duly sworn by me, deposed and said:

THAT a search warrant should be issued for the search of the following described (~~premises~~)(~~person~~)(vehicle) 1980 Buick Regal, blue in color, 2dr, bearing Louisiana License 808B466, VIN 4M47AAH120350

Municipal Number: _____

Type of Occupancy (Residence)(Commercial)(Vehicle) Vehicle

Structure: N/A

Number of Stories: N/A

Apartment Number: N/A

FOR the purpose of seizing the following described property:

One Pellerin-Milnor Corporation Paycheck, made payable to Robert Campbell in the amount of \$80.00

One Brown Leather Jacket

One unknown make 9mm semi-automatic handgun

9mm bullets or casings

Unknown brand handcuffs and handcuff keys

THE reasons and facts for the request of this search warrant are:

On December 15, 1986 at approximately 1129 hours, Patrolman Sandy Gallagher of the Kenner Police Department was dispatched to 1504 Moisant St., Kenner, La., in reference to a shooting. Upon arriving at the residence, Ptn. Gallagher was met by a negro female who identified herself as Elaine Simpson. Mrs. Simpson stated that she had just arrived home when she heard what sounded like two gunshots from inside her residence. She stated that she was preparing to enter the side door of her residence when she heard the gunshots. Shortly after hearing the shots she observed an unknown black male running from the front of her residence. The black male was holding a blue steel handgun in his hand. She stated that the black male ran towards a yellow Ford Pinto which had pulled up in front of her residence shortly after her arrival. Mrs. Simpson stated that she recognized the driver of the Ford Pinto to be her husband's cousin, Doyle Simpson. She stated that as the black male approached the vehicle, he pointed the gun at Doyle and yelled, "Drive." She stated that as Doyle drove away from the residence she entered the house through a side door, located on the south side of the residence. Upon entering

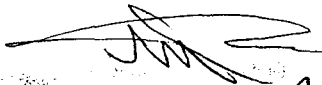
Reasons and Facts.....(continued)

the residence she observed her husband, Clyde Simpson, lying on the kitchen floor. She observed what appeared to be a large pool of blood beneath her husband's head. She called to her husband, but received no response. She stated that after seeing her husband she exited the residence and drove to the Tastee Donut Shop, located in the 2100 block of Airline Hwy. in Kenner. Upon arriving at the Tastee Donut Shop, she called the police from a pay telephone, located in front of the donut shop. After calling the police, she returned to her residence at which time she entered through the side door, walked into her bedroom and called the police again. During the second call, the police arrived at her residence at which time she explained what had occurred.

At approximately 1138 hours, Det. Stephen Caraway of the Kenner Police Department arrived at 1504 Moisant St. Det. Caraway met with Ptn. S. Gallagher who was present at the location. Patrolmen L. Tusa and C. Ortiz of the Kenner Police Department were also present. Ptn. Gallagher stated that she had arrived at the residence at approximately 1131 hours. Shortly after her arrival, Ptn. Tusa and Ortiz arrived. Upon entering the residence, through the south side door, she observed a negro male, identified as Clyde Simpson, lying on the kitchen floor. It appeared that his throat had been slashed. Ptn. Gallagher also observed what appeared to be a gunshot wound to the right side of Clyde Simpson's head. As Ptn. Gallagher checked the kitchen of the residence, Ptn. Tusa and Ortiz checked the remaining interior of the residence. After checking the residence, Ptn. Gallagher, Tusa and Ortiz secured the crime scene.

After speaking with Ptn. Gallagher, Det. S. Caraway entered the residence through the south side door. Upon entering the residence, he observed that the doorjamb had been broken from the frame of the door. The door frame was also observed to have been cracked appearing as if the door had been forcibly opened. After checking the door frame, he entered the residence. The kitchen of the residence was located to the left side of the doorway. Lying on the floor was a negro male identified as Clyde Simpson. Det. S. Caraway observed a large slash wound to the left side of Clyde Simpson's neck. It appeared that he had also sustained several gunshot wounds to the right side of his head. Det. S. Caraway observed two double edged razor blades lying on the kitchen counter top. A red bloodlike substance was observed on the razor blades.

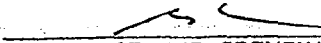
At approximately 1244 hours, Jefferson Parish Coroner's Office Investigator Bill Donovan arrived at 1504 Moisant St. The Coroner's Office had been contacted by Ptn. Gallagher after East Jefferson Ambulance Technicians Perkins and Jones, having arrived at the residence at approximately 1133 hours, were unable to detect any vital signs from Clyde Simpson. Upon Investigator Donovan's examination, it was learned that Clyde Simpson had received an apparent slash wound to the left side of his neck as well as three or four gunshot wounds to the right side of his head. A gunshot wound to Clyde Simpson's stomach was also observed. Upon moving the body of Clyde Simpson, Det. S. Caraway observed a white towel, filled with ice cubes, under his neck. Also lying near his head was four R.P. Luger, 9mm casings.


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,

19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

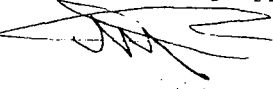
Reasons and Facts.....(continued)

After the scene of the homicide was processed by Jefferson Parish Sheriff's Office Crime Scene Technician R. Savoie, Det. S. Caraway departed 1504 Moisant St. and proceeded to the Kenner Detective Bureau.

At approximately 1450 hours, Det. S. Caraway was contacted by Detective Vernon Bailey of the St. John Parish Sheriff's Office. Detective Bailey stated that his office was investigating a shooting that occurred in Edgard, La. Edgard is located on the westbank of the river in St. John the Baptist Parish. He stated that the victim of the shooting, Doyle Simpson, had been shot once in the back and once in the neck. Detective Bailey stated that their investigation had revealed that Doyle Simpson had been driven to a secluded area in Edgard where he was handcuffed to a tree and shot. Doyle Simpson's vehicle, a yellow Ford Pinto, was found to be stuck in the mud near the scene of the shooting. Detective Bailey stated that a suspicious black male was seen near the scene of the shooting, shortly after it occurred. Mr. Martin Sylvain, a resident of Edgard, La., reported having been stopped by a suspicious black male who was attempting to hitchhike to Kenner. Detective Bailey requested that this detective meet him at the St. John Sheriff's Office Detective Bureau, concerning the shooting that occurred in Edgard.

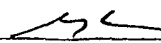
At approximately 1540 hours, Det. S. Caraway arrived at the St. John Parish Sheriff's Office. Mr. Martin Sylvain, having arrived shortly after him, was interviewed concerning his being stopped by the suspicious black male. He stated that between 1230 and 1300 hours he arrived at the Texaco Station, located on Highway 3127, in Edgard. Upon driving up to the gas pumps, he was approached by a black male who asked him for a ride to Kenner. The black male stated that his friends car had broken down nearby and he needed to get back to Kenner by 1400 hours. Mr. Sylvain stated that when he refused to give the black male a ride to Kenner, the black male offered to pay him twenty dollars for the ride. Mr. Sylvain stated that he still refused to give the black male a ride to Kenner. Mr. Sylvain described the black male as being in his late twenties, 5'11" tall, approximately 175 lbs. Mr. Sylvain stated that the black male was light complected and had pimples or freckles on his face. The black male's eyes were described as being "sleepy looking." His hair and beard were described as having a reddish tint. The only clothing Mr. Sylvain recalled was a brown leather jacket. Mr. Sylvain stated that when he departed the Texaco Station, the black male was using the pay telephone, located in front of the business.

On December 17, 1986 at approximately 1010 hours, Det. S. Caraway arrived at River Parishes Medical Center, located in St. John Parish. Doyle Simpson, confined to the Intensive Care Unit of River Parishes Medical Center, assisted this detective in compiling a composite depicting a likeness of the black male that kidnapped and shot him on December 15, 1986. He described the black male as being in his late thirties, approximately 6'0" tall, medium build and having a reddish complexion. He described the black male as having dark pimples or freckles on his face. The black male's beard and hair were described as having a reddish tint. Mr. Simpson stated that prior to being shot, the black male stole his wallet, containing approximately \$40.00



Det. S. Caraway HAD.
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA



JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

Reasons and Facts.....(continued)

in U.S. Currency and a check in the amount of \$80.00. The check was made payable to his step-brother, Robert Campbell. He stated that the check was a payroll check from Pellerin-Milnor Corporation.

On December 24, 1986 at approximately 1000 hours, Det. S. Caraway was contacted by Mr. Richard Rose of South Central Bell Telephone Security. Det. S. Caraway had contacted Mr. Rose on an earlier date and requested that he check the pay telephone number at the Texaco Station in Edgard concerning any collect calls that may have been made between the hours of 1230 and 1300 on December 15, 1986. Mr. Rose stated that his check of the telephone number revealed that a collect call was made from the pay telephone at the Texaco Station on December 15, 1986 at 1254 hours. The call was made to the Horace Toppins residence, located at 7318 Alabama St., New Orleans, La.

On December 29, 1986 at approximately 1230 hours, Det. S. Caraway arrived at 7318 Alabama St. Mr. Toppins, present at the residence was advised of the investigation being conducted. Mr. Toppins stated that he had no knowledge of any collect calls made to his house on December 15, 1986. Mr. Toppins, appearing very nervous, was requested to meet this detective at the Kenner Detective Bureau on December 30th to continue the interview. He agreed.

On December 30, 1986 Det. S. Caraway called the residence of Horace Toppins. Mrs. JoAnn Toppins, the wife of Horace Toppins, was requested to have Mr. Toppins contact Det. S. Caraway concerning the investigation. She stated that her husband was working at their business, however she would give him the message. Although several messages were left at the Toppins' residence, Det. S. Caraway received no response from Mr. Horace Toppins.

On December 31, 1986 at approximately 1440 hours, Det. S. Caraway and Detective Vernon Bailey of the St. John Parish Sheriff's Office, arrived at the residence of Martin Sylvain. A photographic line-up, consisting of six black and white photographs depicting black males was displayed to Mr. Sylvain. One of the photographs displayed in the photographic line-up was of Mr. Horace Toppins. Mr. Sylvain viewed the six photographs and pointed to the photograph of Mr. Horace Toppins. Mr. Sylvain stated that the black male depicted in the photograph was the same black male that offered to pay him twenty dollars to drive him to Kenner on December 15, 1986 at approximately 1300 hours.

On January 1, 1987 at approximately 1120 hours, Det. S. Caraway and Detective Sergeant James Gallagher arrived at Route 1, Box 242A, Winona, Mississippi, the residence of Doyle Simpson. Doyle Simpson was currently residing in Winona, Mississippi, after having been released from River Parishes Medical Center. A photographic line-up consisting of six black and white photographs depicting black males was displayed to Mr. Simpson. One of the photographs depicted in the line-up was of Horace Toppins. After viewing the photographic line-up, Mr. Simpson pointed to the photograph of Horace Toppins and stated that he was the person that kidnapped and shot him on December 15, 1986.



Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,

19 87, AT NEW ORLEANS, LOUISIANA

Judge
JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

Reasons and Facts.....(continued)

Based on the foregoing information and facts, this officer respectfully request that a search warrant be issued for a 1980 Buick Regal, two door, blue in color, bearing Louisiana license plate number 808B466 and V.I.N. number 4M47AAH120350, registered to Horace Toppins, Jr., of 7318 Alabama St., New Orleans, La., and prays that said search include daytime, nighttime, Sundays as well as holidays. The objects of the search are: one Pellerin-Milnor Corporation paycheck, made payable to Robert Campbell in the amount of \$80.00; one brown leather jacket; one unknown make 9mm semi-automatic handgun; 9mm bullets or casings and unknown brand handcuffs and handcuff keys.

Det. S. C. C. UPD.
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA

JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION "105"
1:05 AM

RETURN ON SEARCH WARRANT

At 0130hrs. O'Clock on 2 January 19 87,
 I, the undersigned member of the New Orleans Department of Police,
 executed the foregoing SEARCH WARRANT as follows: I searched the
vehicle described in the said SEARCH WARRANT, and I left a
 copy of the said SEARCH WARRANT with:

JoAnn Toppins (wife of Horace Toppins)
 together with a receipt for the items seized.

THE following is an inventory of property seized pursuant to
 the said foregoing SEARCH WARRANT:

Seized from 1980 Buick Regal

1. Outers, .38 caliber gun cleaning kit
2. 127 black capsules (unknown type) #50-888 inscribed on capsules
3. One Prepaid Legal Services Inc. Membership Card signed by Clyde L. Simpson
 social security number [REDACTED] written on card
4. Spornette Shaper Razor Sheath
5. One black vinyl holster

Names of Persons Arrested:

Horace Toppins, Jr., N/M, d.o.b. 10/11/50, 7318 Alabama St., New Orleans, La.

Names of Persons Wanted:

Det. S. Caraway THIS inventory was made in the presence of: Detective Stephen
Caraway, Kenner Police Dept. AND Det. Sgt. J. Gallagher, Kenner, Police Dept.

THIS RETURN MADE IN DUPLICATE ORIGINAL THIS 3rd DAY OF
January 19 87, NEW ORLEANS, LOUISIANA,.....

N.O.P.D.
Detective Michael Rice Badge No: Homicide
 NEW ORLEANS DEPARTMENT OF POLICE

COPIES:

- Original - Unit file
- 1st Copy - Judge signing Warrant
- Copy - Person upon whom Warrant is served
- Copy - District Attorney
- Copy - Police Record Room



CRIMINAL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA



SEARCH WARRANT

Item _____

ORDER OF SEARCH

TO: THE SUPERINTENDENT OF THE NEW ORLEANS DEPARTMENT OF POLICE
and/or HIS DESIGNATED REPRESENTATIVES.

AFFIDAVIT(S) HAVING BEEN MADE BEFORE ME BY Det. Michael Rice
of the New Orleans Police Dept. and Det. Stephen Caraway of the
~~Kenner Police Dept.~~

THAT he has good reason to believe that on or in the

(premises)(person)(vehicle) located at 7318 Alabama St., N.O.L.A.
1985 Chrysler 5th Ave, Louisiana License 210L555
VIN 1G3BF66PXXE38405

within the Parish of Orleans, State of Louisiana as more fully
described in the application for this warrant, there is now being
concealed certain property, namely, One Pellerin-Milnor Corporation
Paycheck, made payable to Robert Campbell in the amount of \$80.0

one brown leather jacket, one unknown make 9mm semi-automatic
handgun, unknown brand handcuffs and handcuff keys, 9mm bullets
and casings

WHICH said property constitutes evidence of the commission
of a crime or offense against the Laws of the State of Louisiana set
forth in the Louisiana Revised Statutes, and as I am satisfied from
the affidavit(s) submitted in support of the application for this
warrant that there is probable cause to believe that the aforesaid
property is being concealed on the (premises)(person)(vehicle) above
described, and that the aforesaid grounds for the issuance of this
search warrant exist;

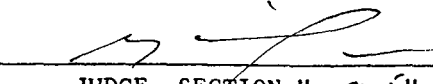
YOU ARE HEREBY ORDERED to search forthwith the aforesaid
(premises)(person)(vehicle) for the property specified, serving this
search warrant and making the search, and if the property be found
there, to seize it, leaving a copy of this warrant and a receipt for
the property seized, to make your written return on this warrant
including a written inventory of the property seized and to bring
the said seized property into the court (before the judge, the clerk
the sheriff, or any court officer who usually acts as the custodian)
within ten (10) days of this date as required by law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search during the daytime or the nighttime and if the
property herein described be found on the (premises)(person)(vehicle)
herein described to seize said property in accordance with law.

YOU ARE (ARE NOT) AUTHORIZED to execute this warrant and
to make this search on a Sunday and if the property herein described
be found on the (premises)(person)(vehicle) herein described to seize
said property in accordance with law.

THIS WARRANT MADE IN DUPLICATE ORIGINAL, NEW ORLEANS, LOUISIANA,

THIS 2nd DAY OF January 19 87.


JUDGE, SECTION " 25 "
CRIMINAL DISTRICT COURT

COPIES:

- Original - Unit File
- 1st Copy - Judge signing Warrant
- Copy - Person upon whom Warrant is served
- Copy - District Attorney
- Copy - Record Room
- Copy - Judge signing Warrant when making Return

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

APPLICATION FOR SEARCH WARRANT

BEFORE ME, the undersigned Judge of the Criminal District Court, Parish of Orleans, State of Louisiana, personally came and appeared: Det. Michael Rice of the New Orleans Police Dept. and Det. Stephen Caraway of the Kenner Police Dept.

employed by the New Orleans Department of Police, 715 South Broad Street, New Orleans, Louisiana,

WHO, after being duly sworn by me, deposed and said:

THAT a search warrant should be issued for the search of the following described (~~premises~~)(~~person~~)(vehicle) 1985 Chrysler 5th Ave. 4dr, black/silver, bearing Louisiana License 210L555, VIN 1C3BF66PXF638405

Municipal Number: N/A

Type of Occupancy (Residence)(Commercial)(Vehicle) Vehicle

Structure: N/A

Number of Stories: N/A

Apartment Number: N/A

FOR the purpose of seizing the following described property:

One Pellerin-Milnor Corporation Paycheck, made payable to Robert Campbell in the amount of \$80.00

One Brown Leather Jacket

One unknown make 9mm semi-automatic handgun

9mm bullets or casings

Unknown brand handcuffs and handcuff keys

THE reasons and facts for the request of this search warrant are:

On December 15, 1986 at approximately 1129 hours, Patrolman Sandy Gallagher of the Kenner Police Department was dispatched to 1504 Moisant St., Kenner, La., in reference to a shooting. Upon arriving at the residence, Ptn. Gallagher was met by a negro female who identified herself as Elaine Simpson. Mrs. Simpson stated that she had just arrived home when she heard what sounded like two gunshots from inside her residence. She stated that she was preparing to enter the side door of her residence when she heard the gunshots. Shortly after hearing the shots she observed an unknown black male running from the front of her residence. The black male was holding a blue steel handgun in his hand. She stated that the black male ran towards a yellow Ford Pinto which had pulled up in front of her residence shortly after her arrival. Mrs. Simpson stated that she recognized the driver of the Ford Pinto to be her husband's cousin, Doyle Simpson. She stated that as the black male approached the vehicle, he pointed the gun at Doyle and yelled, "Drive." She stated that as Doyle drove away from the residence she entered the house through a side door, located on the south side of the residence. Upon entering

Reasons and Facts.....(continued)

the residence she observed her husband, Clyde Simpson, lying on the kitchen floor. She observed what appeared to be a large pool of blood beneath her husband's head. She called to her husband, but received no response. She stated that after seeing her husband she exited the residence and drove to the Tastee Donut Shop, located in the 2100 block of Airline Hwy. in Kenner. Upon arriving at the Tastee Donut Shop, she called the police from a pay telephone, located in front of the donut shop. After calling the police, she returned to her residence at which time she entered through the side door, walked into her bedroom and called the police again. During the second call, the police arrived at her residence at which time she explained what had occurred.

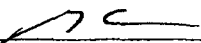
At approximately 1138 hours, Det. Stephen Caraway of the Kenner Police Department arrived at 1504 Moisant St. Det. Caraway met with Ptn. S. Gallagher who was present at the location. Patrolmen L. Tusa and C. Ortiz of the Kenner Police Department were also present. Ptn. Gallagher stated that she had arrived at the residence at approximately 1131 hours. Shortly after her arrival, Ptn. Tusa and Ortiz arrived. Upon entering the residence, through the south side door, she observed a negro male, identified as Clyde Simpson, lying on the kitchen floor. It appeared that his throat had been slashed. Ptn. Gallagher also observed what appeared to be a gunshot wound to the right side of Clyde Simpson's head. As Ptn. Gallagher checked the kitchen of the residence, Ptn. Tusa and Ortiz checked the remaining interior of the residence. After checking the residence, Ptn. Gallagher, Tusa and Ortiz secured the crime scene.

After speaking with Ptn. Gallagher, Det. S. Caraway entered the residence through the south side door. Upon entering the residence, he observed that the doorjamb had been broken from the frame of the door. The door frame was also observed to have been cracked appearing as if the door had been forcibly opened. After checking the door frame, he entered the residence. The kitchen of the residence was located to the left side of the doorway. Lying on the floor was a negro male identified as Clyde Simpson. Det. S. Caraway observed a large slash wound to the left side of Clyde Simpson's neck. It appeared that he had also sustained several gunshot wounds to the right side of his head. Det. S. Caraway observed two double edged razor blades lying on the kitchen counter top. A red bloodlike substance was observed on the razor blades.

At approximately 1244 hours, Jefferson Parish Coroner's Office Investigator Bill Donovan arrived at 1504 Moisant St. The Coroner's Office had been contacted by Ptn. Gallagher after East Jefferson Ambulance Technicians Perkins and Jones, having arrived at the residence at approximately 1133 hours, were unable to detect any vital signs from Clyde Simpson. Upon Investigator Donovan's examination, it was learned that Clyde Simpson had received an apparent slash wound to the left side of his neck as well as three or four gunshot wounds to the right side of his head. A gunshot wound to Clyde Simpson's stomach was also observed. Upon moving the body of Clyde Simpson, Det. S. Caraway observed a white towel, filled with ice cubes, under his neck. Also lying near his head was four R.P. Luger, 9mm casings.


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

Reasons and Facts.....(continued)

in U.S. Currency and a check in the amount of \$80.00. The check was made payable to his step-brother, Robert Campbell. He stated that the check was a payroll check from Pellerin-Milnor Corporation.

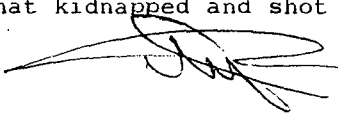
On December 24, 1986 at approximately 1000 hours, Det. S. Caraway was contacted by Mr. Richard Rose of South Central Bell Telephone Security. Det. S. Caraway had contacted Mr. Rose on an earlier date and requested that he check the pay telephone number at the Texaco Station in Edgard concerning any collect calls that may have been made between the hours of 1230 and 1300 on December 15, 1986. Mr. Rose stated that his check of the telephone number revealed that a collect call was made from the pay telephone at the Texaco Station on December 15, 1986 at 1254 hours. The call was made to the Horace Toppins residence, located at 7318 Alabama St., New Orleans, La.

On December 29, 1986 at approximately 1230 hours, Det. S. Caraway arrived at 7318 Alabama St. Mr. Toppins, present at the residence was advised of the investigation being conducted. Mr. Toppins stated that he had no knowledge of any collect calls made to his house on December 15, 1986. Mr. Toppins, appearing very nervous, was requested to meet this detective at the Kenner Detective Bureau on December 30th to continue the interview. He agreed.

On December 30, 1986 Det. S. Caraway called the residence of Horace Toppins. Mrs. JoAnn Toppins, the wife of Horace Toppins, was requested to have Mr. Toppins contact Det. S. Caraway concerning the investigation. She stated that her husband was working at their business, however she would give him the message. Although several messages were left at the Toppins' residence, Det. S. Caraway received no response from Mr. Horace Toppins.

On December 31, 1986 at approximately 1440 hours, Det. S. Caraway and Detective Vernon Bailey of the St. John Parish Sheriff's Office, arrived at the residence of Martin Sylvain. A photographic line-up, consisting of six black and white photographs depicting black males was displayed to Mr. Sylvain. One of the photographs displayed in the photographic line-up was of Mr. Horace Toppins. Mr. Sylvain viewed the six photographs and pointed to the photograph of Mr. Horace Toppins. Mr. Sylvain stated that the black male depicted in the photograph was the same black male that offered to pay him twenty dollars to drive him to Kenner on December 15, 1986 at approximately 1300 hours.

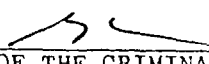
On January 1, 1987 at approximately 1120 hours, Det. S. Caraway and Detective Sergeant James Gallagher arrived at Route 1, Box 242A, Winona, Mississippi, the residence of Doyle Simpson. Doyle Simpson was currently residing in Winona, Mississippi, after having been released from River Parishes Medical Center. A photographic line-up consisting of six black and white photographs depicting black males was displayed to Mr. Simpson. One of the photographs depicted in the line-up was of Horace Toppins. After viewing the photographic line-up, Mr. Simpson pointed to the photograph of Horace Toppins and stated that he was the person that kidnapped and shot him on December 15, 1986.


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,

THIS 2nd DAY OF January,

19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " "

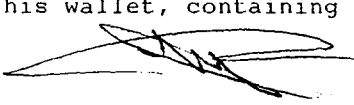
Reasons and Facts.....(continued)

After the scene of the homicide was processed by Jefferson Parish Sheriff's Office Crime Scene Technician R. Savoie, Det. S. Caraway departed 1504 Moisant St. and proceeded to the Kenner Detective Bureau.

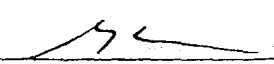
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At approximately 1540 hours, Det. S. Caraway arrived at the St. John Parish Sheriff's Office. Mr. Martin Sylvain, having arrived shortly after him, was interviewed concerning his being stopped by the suspicious black male. He stated that between 1230 and 1300 hours he arrived at the Texaco Station, located on Highway 3127, in Edgard. Upon driving up to the gas pumps, he was approached by a black male who asked him for a ride to Kenner. The black male stated that his friends car had broken down nearby and he needed to get back to Kenner by 1400 hours. Mr. Sylvain stated that when he refused to give the black male a ride to Kenner, the black male offered to pay him twenty dollars for the ride. Mr. Sylvain stated that he still refused to give the black male a ride to Kenner. Mr. Sylvain described the black male as being in his late twenties, 5'11" tall, approximately 175 lbs. Mr. Sylvain stated that the black male was light complected and had pimples or freckles on his face. The black male's eyes were described as being "sleepy looking." His hair and beard were described as having a reddish tint. The only clothing Mr. Sylvain recalled was a brown leather jacket. Mr. Sylvain stated that when he departed the Texaco Station, the black male was using the pay telephone, located in front of the business.

On December 17, 1986 at approximately 1010 hours, Det. S. Caraway arrived at River Parishes Medical Center, located in St. John Parish. Doyle Simpson, confined to the Intensive Care Unit of River Parishes Medical Center, assisted this detective in compiling a composite depicting a likeness of the black male that kidnapped and shot him on December 15, 1986. He described the black male as being in his late thirties, approximately 6'0" tall, medium build and having a reddish complexion. He described the black male as having dark pimples or freckles on his face. The black male's beard and hair were described as having a reddish tint. Mr. Simpson stated that prior to being shot, the black male stole his wallet, containing approximately \$40.00


Det. S. Caraway
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS ~~2nd~~ DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " " "

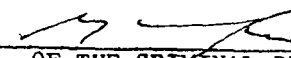
Reasons and Facts.....(continued)

Based on the foregoing information and facts, this officer respectfully request that a search warrant be issued for a 1985 Chrysler 5th Avenue, four door, black silver in color, bearing Louisiana license plate number 210L555 and V.I.N. number 1C3BF66PXF628405, registered to JoAnn Toppins of 7318 Alabama St., New Orleans, La., and prays that said search include daytime, nighttime, Sundays as well as holidays. The objects of the search are: one Pellerin-Milnor Corporation paycheck, made payable to Robert Campbell in the amount of \$80.00; one brown leather jacket; one unknown make 9mm semi-automatic handgun; 9mm bullets or casings and unknown brand handcuffs and handcuff keys.



Det. F. Caruth
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS 2nd DAY OF January,
19 87, AT NEW ORLEANS, LOUISIANA


JUDGE, OF THE CRIMINAL DISTRICT
COURT, SECTION " MS "

RETURN ON SEARCH WARRANT

At 0130hrs. O'Clock on 2 January 19 87,
 I, the undersigned member of the New Orleans Department of Police,
 executed the foregoing SEARCH WARRANT as follows: I searched the
 vehicle _____ described in the said SEARCH WARRANT, and I left a
 copy of the said SEARCH WARRANT with:

JoAnn Toppins (wife of Horace Toppins)
 together with a receipt for the items seized.

THE following is an inventory of property seized pursuant to
 the said foregoing SEARCH WARRANT:

Seized from 1985 Chrysler 5th Avenue

1. One pair of brown cloth gloves

Names of Persons Arrested:

Horace Toppins, Jr., N/M, 10/11/50, 7318 Alabama St., New Orleans, La.

Arrested on City of Kenner Warrant charging him with First Degree Murder,
Aggravated Burglary and Simple Kidnapping.

Names of Persons Wanted:

Det. S. Caraway THIS inventory was made in the presence of: Det. Stephen Caraway
Kenner Police Department AND Det. Sgt. J. Gallagher, Kenner Police Dept.

THIS RETURN MADE IN DUPLICATE ORIGINAL THIS 3rd DAY OF
January 19 87, NEW ORLEANS, LOUISIANA.....

Det. Michael Rice N.O.P.D.
Badge No. _____
NEW ORLEANS DEPARTMENT OF POLICE

COPIES:

Original - Unit file
 1st Copy - Judge signing Warrant
 Copy - Person upon whom Warrant is served
 Copy - District Attorney
 Copy - Police Record Room

STATE OF LOUISIANA

NO. 87-10DIVISION 5

STATE OF LOUISIANA

VS.

HORACE TOPPINS, JR.AFFIDAVIT AGAINST MATERIAL WITNESSES
AND RULE TO SHOW CAUSE WHYDOYLE SIMPSONSHOULD NOT BE HELD IN CUSTODY FOR
PURPOSE OF SECURING TRIAL TESTIMONY
AS A MATERIAL WITNESS

Now into Court, comes the State of Louisiana, through the under-
signed Assistant District Attorney who suggest that the trial of the above
matter is set as follows:

Trial Date August 19 & 24, 1987
Time 9:00 a.m.

That the above named witness is material to the above case or has
important information and the State of Louisiana desires that said witness be
present.

However, that State of Louisiana, has been informed and/or received
information that the witness will not voluntarily appear, although a subpoena
has been issued and therefore, th State of Louisiana moves that the above
named witness show cause before the Honorable Court why he should not be held
in custody as a material witness or give an appearance bond.

I certify the above is correct to the best of my knowledge and
belief.

Sworn to and subscribed
before me this 20th
day of August, 1987.

[Signature]
Notary/Clerk

State of Louisiana

[Signature]
ASSISTANT DISTRICT ATTORNEY
AFFIANT

O R D E R

IT IS HEREBY ORDERED that this rule be served up the above named
witness and that he be commanded to appear before this Honorable Court on
this 20th day of August, 1987, to show cause why he should
not be held in custody as a material witness, from day to day or week to week,
pending on the beginning of trial or why he should not be required to post a
material witness bond.

Please Serve: Doyle Simpson
RT-1 Box 242 A
Winona, Mississippi

ON MINUTES
SEP 10 1987

[Signature]
JUDGE

137

STATE OF LOUISIANA

NO. 87-10

DIVISION I

STATE OF LOUISIANA

VS.

Horace Toppins, Jr.

AFFIDAVIT AGAINST MATERIAL WITNESSES
AND RULE TO SHOW CAUSE WHY

Doyle Simpson

SHOULD NOT BE HELD IN CUSTODY FOR
PURPOSE OF SECURING TRIAL TESTIMONY
AS A MATERIAL WITNESS

Now into Court, comes the State of Louisiana, through the under-
signed Assistant District Attorney who suggest that the trial of the above
matter is set as follows:

Trial Date August 19 & 24, 1987
Time 9:00 a.m.

That the above named witness is material to the above case or has
important information and the State of Louisiana desires that said witness be
present,

However, that State of Louisiana, has been informed and/or received
information that the witness will not voluntarily appear, although a subpoena
has been issued and therefore, th State of Louisiana moves that the above
named witness show cause before the Honorable Court why he should not be held
in custody as a material witness or give an appearance bond.

I certify the above is correct to the best of my knowledge and
belief.

Sworn to and subscribed
before me this 20th
day of August, 1987.

Notary/Clerk

State of Louisiana

J. G. de la
ASSISTANT DISTRICT ATTORNEY
AFFIANT

ORDER

IT IS HEREBY ORDERED that this rule be served up the above named
witness and that he be commanded to appear before this Honorable Court on
this 20th day of August, 1987, to show cause why he should
not be held in custody as a material witness, from day to day or week to week,
pending on the beginning of trial or why he should not be required to post a
material witness bond.

Please Serve: Doyle Simpson
316 N. Elm
Apt.D.
Metairie, LA

ON MINUTES
SEP 10 1987

Joseph Kanno
JUDGE

091107

**TWENTY-FOURTH JUDICIAL DISTRICT COURT
FOR THE PARISH OF JEFFERSON**

HARD LABOR

DIVISION "J"

DOB: 10/11/50

NO. 87-0010

ITEM NO. 12-47408-86

COMMITMENT

WHEREAS HORACE TOPPINS, JR.

was by due form of law lately PLEAD before our 24th Judicial District Court
for the Parish of Jefferson of Violating Revised Statute 14:31 (UNDER ALFORD CASE)

MANSLAUGHTER

and was thereupon sentenced to imprisonment at hard labor, for TWENTY-ONE (21) YEARS

and defendant is committed to the Louisiana Department of Corrections for execution of said sentence in conformity
with L. S. A. - R. S. 15:824.

DEFENDANT TO BE GIVEN CREDIT FOR TIME SERVED.

NOW, THEREFORE, You, the said Sheriff, are hereby commanded to carry out in full every part of the aforesaid
sentence. And for so doing this shall be your sufficient warrant and authority.

WITNESS, JACOB L. KARNO, JUDGE

presiding in the 24th Judicial District Court, Division "J",

Parish of Jefferson, at the Hall of Sittings of the same, in the City of Gretna,

this 26th. day of AUGUST

in the year of our Lord, one thousand nine hundred and

EIGHTY-SEVEN

Jacob L. Karno
JUDGE

ON MINUTES
SEP 10 1987

TWENTY-FOURTH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

NUMBER: 87-0010

DIVISION: J

STATE OF LOUISIANA

VERSUS

HORACE TAPPINS

DEFENDANT'S ACKNOWLEDGEMENT OF CONSTITUTIONAL RIGHTS AND WAIVER OF RIGHTS
ON ENTRY OF A PLEA OF GUILTY

To the defendant

HORACE TAPPINS, JR.
(FULL NAME)

I. Competency

Initially you must convince the Court that you are competent to enter this plea of guilty.

1. Is there any reason known to you, that you are not mentally or physically able to enter into this plea agreement? NONE If yes, please explain _____

2. How old are you? 36 yr Date of Birth 10/11/50. How much school have you had 14 1/2
Can you read, write and understand the English language yes Employment? BETTY SALDOVA
3. Are you currently addicted to any drugs, alcohol and/or medication? NO ORAL

If you do not understand anything I say or if you have any questions, stop me, and I will answer your questions and give you any additional instructions you may desire.

II. Plea of Guilty

1. Your attorney has advised the Court that you wish to withdraw your former plea of not guilty and enter a plea of guilty to the charge under La. R.S. 14:31 -
for MARS LAINTER under ALFORD CASE
(if applicable: which is being tendered under the provisions of La. R.S. 40:983
La. Art 893 La. Art 894) Is this Correct? YES
2. Have you fully discussed this matter with your attorney, including your possible defenses to this charge? YES
3. Are you satisfied with the representation your attorney has given you? YES
4. Do you have any prior convictions? NO If so, what _____

5. Where did this crime occur? JEFFERSON PARISH
6. You are pleading guilty under La. R.S. 14:31 to the crime of MARS LAINTER
which is defined as (read statute) which occurred on the 15th day of December 1987
The maximum sentence this court can impose is Twenty-one (21) yrs with or without
hard labor or a \$ _____ fine or both. There is probation, parole and/
or suspension of sentence available for this crime. Yes ✓ No _____
7. Do you understand the charges against you and the possible penalties? Yes ✓ No _____
8. Have you been advised by your counsel that in the event the Court accepts your plea of

guilty that you will be sentenced as follows: TO SERVE TWENTY-ONE

(21) YEARS AT HARD LABOR IN THE CUSTODY
OF THE DEPARTMENT OF CORRECTIONS FOR
THE STATE OF LOUISIANA, C.T.S.

Is this your understanding of the plea agreement? YES

9. Do you intend to appeal any rulings or orders entered by the Court prior to your guilt plea? NO. Are there any motions which are open or pending? NO Are you withdrawing or dismissing these motions? NO
(District Attorney) Does the State intend to enhance any penalty or multiple bill the defendant as a habitual offender? NO

WAIVER OF RIGHTS

Page 2

II. Rights Waived

1. Your attorney has indicated to me that he has advised you of your rights as follows:
 - a. Prior to, and at trial, you have the right to assert defects, such as an illegal arrest, an illegal search and seizure, an illegal confession or an illegal line-up. By entering a plea of guilty, you are waiving or giving up these rights. Do you understand that? YES
 - b. You have a constitutional right to a trial by jury, which may find you guilty as charged, guilty of a lesser offense or not guilty. By entering a plea of guilty, you are waiving or giving up these rights. Do you understand that? YES
 - c. You have the right to waive a trial by jury and be tried by this court, which may find you guilty as charged, guilty of a lesser offense or not guilty. By entering this plea of guilty, you are waiving or giving up these rights. Do you understand that? YES
 - d. At a trial of this matter, the presumption of innocence rests with you; the State must prove you guilty beyond a reasonable doubt. You have a constitutional right to your privilege against self-incrimination, that is, you have a right to remain silent and you do not have to testify against yourself or produce any evidence. By entering a plea of guilty, you are waiving or giving up these rights. Do you understand that? YES
 - e. On the other hand, you have a right to waive or give up your right to remain silent and testify or produce any evidence of your non-guilt. By entering a plea of guilty, you are waiving or giving up these rights. Do you understand that? YES
 - f. You have a constitutional right to confront your accusers and subject them to cross-examination. You have the right to subpoena or call witnesses and compel them to testify. You are entitled to present an affirmative defense. By entering a plea of guilty you are waiving or giving up these rights. Do you understand that? YES
 - g. In the event of a conviction you would have the right to appeal. At all stages of the proceedings, including an appeal, you have the right to retain an attorney of your choice to defend you. If you cannot afford an attorney, one would be appointed to you which would not cost you anything. By entering a plea of guilty, you are waiving or giving up your right to have an attorney further defend and represent you during the trial stages of these proceedings. Do you understand that? YES After this, do you understand that your only appeal is for jurisdictional defects or for review of the sentence which the court imposes? YES
 - h. Do you understand that a plea of guilty is your decision? YES
 - i. Do you understand that no one can force you to plead guilty? YES
 - j. Do you understand that to plead guilty is your voluntary act and must be free from any vice or defect which would make your guilty plea invalid? YES
 - k. Has anyone used any force, intimidation, coercion or promise of reward against either you or any member of your family, for the purpose of making or forcing you to plead guilty? NO Do you understand that by pleading guilty you are telling this court that you have in fact committed the crime to which you are pleading guilty? YES

In light of the full explanation of the nature and consequences of a guilty plea, how do you wish to plead to the charge under La.R.S. 14:31

for MARSHALL

Defendant wants to plead Guilty under Alford case

2. Would you explain to the Court the factual circumstances surrounding your arrest for this crime, and the reasons why you are tendering a plea of guilty to this court

placed on record by D.A. DeLaup.

BY THE DEFENDANT'S ATTORNEY:

I, as attorney for the defendant, was present during the recitation of the foregoing colloquy between the defendant and the trial judge at the time of the defendant's plea of guilty.

I have informed the defendant of his (her) constitutional rights, particularly the nature of the crime to which he (she) is pleading guilty, the maximum sentence the court could impose under the law, and the fact that the defendant, by entering this plea of guilty, is waiving his (her) right to trial by jury, his (her) right to confront his accusers and to subject them to cross-examination, his (her) right against self-incrimination, and lastly, that his (her) only appeal is for review of jurisdictional defects and sentence, and I am entirely satisfied that the defendant knowingly, willingly, intelligently and voluntarily has entered this plea of guilty knowing the consequences. I further know of no reason, physical or mental, why the defendant should not be deemed competent to enter this plea.

August 26, 1987
DATE

[Signature]
ATTORNEY

BY THE DEFENDANT:

I, as the defendant in this case, acknowledge: 1) that the foregoing has been read to me; 2) that my attorney and the trial judge have explained the nature of the crime to which I am pleading guilty; 3) that the trial judge has explained to me all of my constitutional rights and what rights I am waiving or giving up as listed above, and that I have been given every opportunity by the trial judge to ask questions in open court about anything I do not understand and about all the consequences regarding my plea of guilty. I am completely satisfied with the explanation of my attorney and the trial judge.

I FURTHER ACKNOWLEDGE THAT MY ACT OF PLEADING GUILTY IS A KNOWING, INTELLIGENT, FREE AND VOLUNTARY ACT ON MY PART. I know that by pleading guilty, I admit I committed the said crime. I know this plea of guilty is more than a confession. It is also a conviction. Nothing further remains except for the trial judge to give me my punishment. I waive all delays for sentencing.

August 26, 1987
DATE

[Signature]
DEFENDANT

BY THE TRIAL JUDGE:

I, as trial judge have entered into the following colloquy with the defendant. I am entirely satisfied that the defendant is competent to enter into this plea agreement, that the defendant was aware of the nature of the crime to which he (she) has plead guilty, that the defendant did in fact commit said crime, that he (she) understands the consequences of said plea of guilty and that he (she) has made a knowing, intelligent, free and voluntary act of pleading guilty to the above mentioned crime. I find that there is a factual basis which exists for the defendant to plead guilty to the above mentioned crime. I, therefore, accept the defendant's plea of guilty.

August 26, 1987 at Gretna, Louisiana.

[Signature]
JUDGE

ON MINUTES
SEP 10 1987

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WILLIAM J. WHITNEY
ATTORNEY AT LAW
Poydras Center
650 Poydras Street
Suite 1440
New Orleans, Louisiana 70130
522-7260

August 14, 1987

Hon. Raul Galan
Clerk of Court, Criminal Division
24th Judicial District Court
Jefferson Parish
Courthouse Annex
Gretna, LA 70053

RE: request for subpoenas
State v. Toppins, 87-0010 "J"

Dear Sir:

I would ask that you issue subpoenas to the below listed individuals for trial, scheduled for August 24, 1987 at 9:00 AM, in Division "J". They are as follows:

1. Jewel Walker 3564 E.Loyola Dr., Kenner, LA
2. Elaine Simpson 129 Ann Lane, St.Rose, LA
3. Zachary Bellard 537 N.Elm St., Metairie, LA
4. Felix Bellard 533 N.Elm St, Metairie, LA
5. Nina Robinson 176 Rosalie Dr., Apt. B, Avondale, LA
6. Roscoe Campbell 320 N.Elm, Apt.D, Metairie, LA
7. Robert Campbell 320 N.Elm, Apt.D, Metairie, LA
8. Mark McNutt Route 1, Box 242A, Winona, MS
9. James Bartee 1506 Moisant St., Kenner, LA
10. Mrs. James Bartee 1506 Moisant St., Kenner, LA
11. Willie Lee 1508 Webster St., Kenner, LA
12. Melvin Pittman
13. Patrolman S. Gallagher G9786 Kenner Police Dept.
14. Patrolman L. Tusa T0307 Kenner Police Department
15. Patrolman C. Ortiz 01774 Kenner Police Dapartment
16. Det. Sgt. J. Gallagher G6114 Kenner Police Department
17. Det. S. Caraway C0459 Kenner Police Department
18. Dep. R. Savoie Jefferson Parish Sheriff's Office, Crime Lab
19. Dep. D. Deauzat Jeff. Parish Sheriff's Office, Crime Lab
20. Dr. Alvin Matthews Jefferson Parish Coroner's Office
21. Patrolman K. Vaughn Kenner Police Department *Det. D. Babin - Kenner*
22. Joanne Toppins 4935 Rhodes Dr., NOLA
23. Natalie Toppins 4935 Rhodes Dr., NOLA

Det Michael Rice - NOPD Det Marco Demma - NOPD

Your prompt attention to the issuance of these subpoenas is appreciated. With kind regards, I remain,

Lieut. P. Oubre - St John Parish Sheriff's
Det. Vernon Bailey
Det. Bridgett Dinkbult

WJW

Sincerely

William J. Whitney
WILLIAM J. WHITNEY

1. SANDRA BORNE
2. RALPH STRICKLER
3. ROBERT JEAGER
4. DON RICHARDSON
5. VIVIENNE BLAIRE
6. RALPH JOSEPH
7. MARGO DEGREE

8. ELLA BOGAN
9. BEVERLY LOMBARD
10. ROBERT FRAICHE
11. LOLITA TOPPINS

CHRONOLOGICAL INDEX CASE NO. 87-10 DIV. "J"

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STATE OF LOUISIANA
VS

NUMBER 87-10
24th JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON • STATE OF LOUISIANA

HORACE TOPPINS

DIVISION "J"

☐ IN JAIL CHARGE: APPEAL
☐ BONDED

FELONY ☐
MISDEMEANOR ☐

Request For Appointment of Counsel

Court Order

PLEASE PRINT

HORACE TOPPINS

DATE OF BIRTH SOCIAL SECURITY #

under penalty of perjury, and in accord with Act #653 of 1976, state under oath that I am unable financially to obtain counsel, and I request of the Court that counsel be appointed to represent me on the above charge (s). I understand that if it is determined that I am able to pay for my defense, in whole or part, the I. D. Board*, has the right to determine the manner and amount that I will be subject to repay the I. D. Board* fund. If I retain an attorney I will notify the Board immediately. If I fail to notify the Board I agree to repay all expenses incurred in the defense of this matter.

5/26/88 APPEAL

DATE DEFENDANT

DEFENDANTS ADDRESS PLEASE PRINT

CITY/STATE ZIP

PHONE ☐ PERSONAL
☐ RELATIVE
☐ NEIGHBOR

ITEM # IN JAIL AT:

IDB CASE #

The foregoing oath and other relevant information considered, it being determined by the Court at this time that the defendant is a needy person under Act #653 of 1976, and

Bruce G. Whittaker IDB Staff Appeals
ATTORNEY AT LAW

211 Derbigny St.

ADDRESS

Gretna, La. 70053 366-4569

CITY-ZIP

PHONE

is herewith appointed to represent the above defendant in accordance with said act.

DATE

5/31/88

JUDGE

BOND INFORMATION

AMOUNT

TYPE

BONDING COMPANY (IF ANY)

BOND SIGNED BY

FINANCIAL STATEMENT

ATTORNEY APPOINTMENT

EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Am Self Employed	Name and address of employer: IF YES, how much do you earn per month? \$ IF NO, give month and year of last employment How much did you earn per month \$
	IF married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No IF a minor under age 21, what is your Spouse earn per month \$ Parents or Guardian's approximate monthly income \$	
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input type="checkbox"/> No	RECEIVED SOURCES
	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY \$ THE SOURCES	
CASH	Have you any cash on hand or money in savings or checking account <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, state total amount \$	
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No	VALUE DESCRIPTION
	IF YES, GIVE VALUE AND \$ DESCRIBE IT	

<input type="checkbox"/> NOT RECOMMENDED <input type="checkbox"/> RECOMMENDED		
BY: ATTORNEY RETAINED		
VR: RECEIVED I D B		
ACTION	BY	TIME & DATE
Filed: _____		

A FALSE OR DISHONEST ANSWER TO A QUESTION IN THIS STATEMENT MAY BE PUNISHABLE BY FINE OR IMPRISONMENT OR BOTH

ASSETS

OBLIGATIONS & DEBTS

DEPENDENTS

DEBTS & MONTHLY BILLS

WITNESS:

X LYNN SAWYER

I certify the above to be correct.

X APPEAL

SIGNATURE OF DEFENDANT

IN THE
24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON

HORACE TOPPINS, JR.,

Petitioner

versus

BRUCE LYNN, SECRETARY
DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS,

Respondent

NO. 87-0010

DIVISION "J"

FILED

DEPUTY CLERK

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF APPLICATION FOR POST-CONVICTION RELIEF

PETITIONER PRO SE

Horace Toppins, Jr.
State Police Barracks
P.O. Box 66614
Baton Rouge, LA 70896

STATEMENT OF THE CASE

On December 15, 1986 a lone intruder entered the residence of Clyde Simpson at 1504 Moisant Drive in Kenner, Louisiana and killed him with several gunshots in the head. The victim's wife, Elaine Simpson, drove up to their residence at approximately 11:15 a.m. and heard what sound like two gunshots.^{ed} She observed a long black male running from the front of the residence. The intruder ran up to a yellow Ford Pinto which had pulled up in front of the Simpson residence shortly after he^r arrival. She recognized the driver of the vehicle as Doyle Simpson, her husband's cousin. The intruder pointed a gun at Doyle Simpson and commanded, "Drive." Mrs. Simpson entered the residence, found her husband lying in a pool of blood, and immediately called the local police.

Later that afternoon detectives working the Clyde Simpson murder case received information from St. John Parish detectives that Doyle Simpson had been found handcuffed to a tree. He had been shot once in the back and once in the neck. His yellow Ford Pinto was found nearby, stuck in the mud. St. John Parish detectives reported that Martin Sylvain, a resident of Edgard, Louisiana, had been stopped by a suspicious looking black male who was trying to hitch a ride to Kenner.

The Jefferson Parish detectives immediately went to the St. John Parish Sheriff's Office where they interviewed Mr. Sylvain. He told detectives that, while having his vehicle serviced at a local Texaco station, he was approached by a black male who offered to pay for a ride to Kenner. The black male stated that a friend's car had broken down nearby. Mr. Sylvain stated that he refused to give the man a ride, adding that the man was using a pay phone located in front of the station when he drove away from the station.

As part of their preliminary investigation, the Jefferson Parish detectives contacted South Central Bell Telephone Security requesting a check of any collect calls made from the pay telephone at the Texaco station on the afternoon of December 15, 1986. On December 24, 1986 detectives received

information from Richard Rose, South Central Bell Telephone Security, that a collect call had been made at 12:54 p.m. on the afternoon of December 15, 1986 to the New Orleans residence of Horace Toppins, the petitioner herein.

On December 30, 1986 Jefferson Parish detective Stephen Caraway called the petitioner's residence and spoke with petitioner's wife. After learning that the petitioner was not at home, detective Caraway asked that the petitioner contact him.

On December 31, 1986 Jefferson Parish and St. John Parish detectives conducted a photographic lineup with Martin Sylvain. Mr. Sylvain was shown an array of six black-and-white photographs depicting black males. A photo from the petitioner's drivers' license was part of the array. The rest of the photographs were mugshots of other criminal suspects. Mr. Sylvain identified the photograph of the petitioner as the man who offered to pay him twenty dollars for a ride to Kenner on the afternoon of December 15, 1986.

On January 1, 1987 Jefferson Parish detectives went to the residence of Doyle Simpson, who was still recovering from his wounds, and conducted a similar photographic lineup. Mr. Simpson also identified the petitioner as the man who kidnapped, robbed and shot him on the afternoon of December 15, 1986.

Armed with this information, Jefferson Parish detectives secured a search warrant of the petitioner's residence in New Orleans on January 2, 1987. The search was conducted and the petitioner was arrested on that same day.

The petitioner retained attorneys William Whitney and Martin Regan to represent him. The petitioner was arraigned and tendered a plea of not guilty. On August 26, 1987 the petitioner, on the advice of counsel, withdrew his former plea of not guilty and tendered a plea of guilty to a reduced charge of manslaughter. The guilty plea was part of a plea bargain negotiated between defense counsel and the district attorney's office and accepted by the Honorable Jacob L. Karno, judge presiding.

LEGAL ARGUMENT

In Washington v. Strickland, 104 S.Ct. 2052 (1984) the United States Supreme Court enunciated the standard of review for defendants raising ineffective assistance of counsel claims:

"A convicted defendant's claim that counsel's assistance was so defective as to require reversal of conviction or death sentence has two components. First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction or death sentence resulted from a breakdown in the adversary process that renders the result unreliable." Id., at 2064.

The Supreme Court in Hill v. Lockhart, 106 S.Ct. 306 (1985) extended the same deficiency/prejudice standard to ineffective assistance claims involving guilty pleas. Id., at 370.

1. The Deficiency Component

From the outset the petitioner maintained his innocence to his attorneys. The petitioner relied upon an alibi defense. The petitioner had witnesses that placed him at his residence during the time of the commission of the crime. On the morning of December 15, 1986, the petitioner took his daughter to school, returned home, and went to bed. He remained in bed until one o'clock in the afternoon. Petitioner's wife left their home at approximately 11:30 to pick up their daughter at school. While away from the residence, petitioner's wife called home and spoke with her husband. She returned home at approximately 1:30 p.m. with the oldest daughter.

The petitioner decided to accept the plea bargain only after succumbing to substantial emotional pressure. His wife, recently with child, begged him to accept the plea bargain. Defense attorneys had frightened the petitioner's family, as well as himself, with the possibility of a first-degree murder verdict and death penalty being returned by a jury. Notwithstanding the petitioner's repeated assertions of innocence, defense attorneys strongly advised the petitioner to accept the plea bargain on the premise that he would be out

of prison in a few years and allowed to return to his family. The guilty plea record reveals that the decision to plead guilty was made after a marathon two-hour plea negotiation session. With a crying, pregnant wife, a jury selected and seated, and attorneys dissatisfied because they were still owed \$4,000 on their retainer fee, the petitioner, an innocent man, accepted the plea bargain to a reduced charge of manslaughter and the maximum 21-year term.

The Supreme Court has held that "where, as here, a defendant is represented by counsel during the guilty process and enters his plea upon the advice of counsel, the voluntariness of the plea depends on whether counsel's advice 'was within the range of competence demanded of attorneys in criminal cases' ..." Hill v. Lockhart, supra, 106 U.S. at 369. The petitioner argues that advice by counsel to an innocent client to accept a plea bargain, no matter how enticing, does not fall "within the range of competence demanded of attorneys in criminal cases." McMann v. Richardson, 397 U.S. 759, 90 S.Ct. 1441, 25 L.Ed.2d 763 (1970). Accord: State v. Martin, 486 So.2d 333, 335 (La.App. 3 Cir. 1986).

This is not a case where defense attorneys had a client who simply maintained his innocence. Defense attorneys not only had a client who repeatedly asserted his innocence but provided them with a list of alibi witnesses. The courts look with disfavor on attorneys who do not investigate alibi defenses and opt to accept the convenience of a plea bargain. See, Thomas . Lockhart, 738 F.2d 304, 307-708 (8th Cir. 1984). In Thomas the court discussed the perfunctory investigative effort of a defense attorney:

"Under the circumstances of this case, we believe that Barker's investigation fell short of what a reasonably competent attorney would have done. Thomas maintained that he was innocent and that he had never seen the victim until he was arrested. Thomas also claimed that he had not admitted to the police that he had had sexual intercourse with the victim. Barker did not interview the victim to assess her version of the facts nor did he interview the police officers involved in the taking of Thomas' statement and in his pre-trial identification.

'Both Thomas and his mother testified that he gave Barker the names of three alibi witnesses ...'
Id., at 308.

The federal appeals court noted that "Thomas supplied Barker with information which was critical in order for Barker to assess intelligently whether Thomas committed the rape and whether there were any defenses ... Thus, this case can be distinguished from cases in which the defendant did not provide counsel with any information casting doubt on the events portrayed by the files of the prosecuting attorney." Thomas v. Lockhart, supra, 738 F.2d at 308. The petitioner supplied his attorneys with a list of alibi witnesses which was "critical" to "assess intelligently" whether the petitioner committed the crime charged.

The State's case was strongly based upon the pre-trial photographic identification of the petitioner by Mr. Sylvain and Doyle Simpson. Defense attorneys did not, pursuant to LSA-Art. 703(A), C.Cr.P., move to suppress the pre-trial photographic identification as violating the photographic lineup factors enunciated in Manson v. Braithwaite, 432 U.S. 98, 97 S.Ct. 2243, 53 L. Ed.2d 140 (1977). See, State v. Lewis, 489 So.2d 1055, 1057 (La.App. 1 Cir. 1986).

Normally a defendant who accepts a plea bargain and is fully Boykinized cannot have his guilty plea set aside because he develops belated regrets about the plea bargain. See, State ex rel. Ryall v. Louisiana, 425 So.2d 1019, 1020 (La.App. 4 Cir. 1983). The petitioner, however, is not a guilty defendant regretting a plea bargain but an innocent defendant - one who pled guilty under the "Alfred" rule to preserve his claim of innocence - whose Sixth Amendment right was violated by counsel's advice to accept a plea bargain. Thomas v. Lockhart, and not State ex rel. Ryall v. Louisiana, should be the controlling authority here.

2. The Prejudice Component

The petitioner was prejudiced by counsel's deficient performance because it prevented him from "entering a knowing, voluntary, and intelligent plea." See, Thomas v. Lockhart, supra, 738 F.2d at 307. First, defense counsel did not challenge the photographic pre-trial lineup pursuant to Manson v. Braithwaite to ascertain its constitutional validity, and, second, he did not thoroughly investigate the alibi defense.

The Fifth Circuit in Washington v. Strickland, 693 F.2d 1243 (5th Cir. 1982) held that "before making a strategic choice as to which lines of defense to employ at trial, counsel should ideally conduct a substantial investigation into each potential line. In this way he would be able to assess with a considerable degree of professional accuracy which lines are most likely to succeed at trial. He would be able to discuss thoroughly the options with his client." Id., at 1253.

The rule is the same in guilty plea cases. Counsel should have challenged the pre-trial photographic line and interviewed every alibi witness to determine their demeanor and credibility before a jury. He could have then told his client that since the pre-trial identification procedure passed constitutional muster, it could be utilized during the trial. Moreover, he could have assessed the believability of the alibi witnesses and conveyed his professional assessment to the petitioner. In brief, had defense counsel challenged the photographic identification procedures and thoroughly investigated the alibi defense, he would have been "able to discuss thoroughly the options with his client." Washington v. Strickland, supra.

Relative to the prejudice inquiry, the Supreme Court in Washington v. Strickland set forth the following test:

"The defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome."
104 S.Ct. at 2068.

"Confidence in the outcome" is undermined when an innocent defendant is unprofessionally advised to plead guilty, especially when that defendant had several alibi witnesses. The alibi witnesses, standing alone, create a "reasonable probability" that had defense counsel presented the alibi defense, a jury would have reached a not guilty verdict or been unable to reach a decision resulting in a hung jury.

In formulating the standards of prejudice/performance, the Supreme Court in Strickland cautioned that the standards are not "mechanical rules" and pointed to a broader, perhaps more reliable, rule governing ineffective

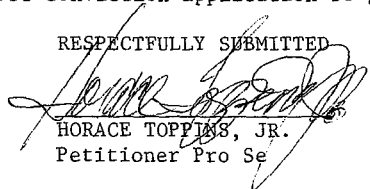
assistance claims:

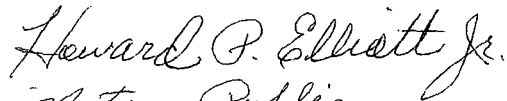
"Although those principles should guide the process of decision, the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. In every case the court should be concerned with whether, despite the strong presumption of reliability, the result of the particular proceeding is unreliable because of a breakdown in the adversarial process that our system counts on to produce just results." Id., 104 S.Ct. at 2069.

CONCLUSION

For the foregoing reasons, and for any reason as may appear to the court, the petitioner prays that the post-conviction application be granted.

RESPECTFULLY SUBMITTED


HORACE TOPPINS, JR.
Petitioner Pro Se


Howard P. Elliott Jr.
Notary Public

CHRONOLOGICAL INDEX CASE NO. 87-10 DIV. "J"

<u>DATE</u>	<u>PLEADINGS OR DOCUMENTS FILED</u>	<u>PAGE</u>
JUNE 29, 1988	ASSIGNMENT OF ERRORS AND DESIGNATION OF RECORD -----	1
JULY 22, 1988	CERTIFICATE -----	2

IN THE
SUPREME COURT FOR THE STATE OF LOUISIANA

NO. 93-KH-1154

HORACE TOPPINS, JR

PETITIONER

VERSUS

JOHN P. WHITLEY, WARDEN
LOUISIANA STATE PENITENTIARY,
ANGOLA, LOUISIANA

RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE LOUISIANA STATE SUPREME COURT
FOR THE FIFTH CIRCUIT COURT OF APPEAL
FOR THE STATE OF LOUISIANA
CASE NO. 93-KH-140

ARCENIOUS F. ARMOND, JR.
La. Bar No. 20678
Attorney for Horace Toppins, Jr.
401 Whitney Avenue, Suite 403
Gretna, Louisiana 70056
(504) 367-1099

DEPUTY CLERK
JANICE L. JEFFERSON, LA.

FILED FOR RECORD
JUL 10 1993

IN THE SUPREME COURT FOR THE STATE OF LOUISIANA

NO. 93-KH-1154

HORACE TOPPINS, JR.

PETITIONER

VERSUS

JOHN P. WHITLEY, WARDEN
LOUISIANA STATE PENITENTIARY
ANGOLA, LOUISIANA

RESPONDENT

FILED: _____

DEPUTY CLERK

SUPPLEMENTAL AND AMENDING BRIEF

The petition of HORACE TOPPINS, JR., Appellant, respectfully represents that he desires to supplement and amend his original brief filed in this matter:

INDEX

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DEPUTY CLERK
JAMES O. JEFFERSON, LA.

FILED FOR RECORD
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TABLE OF AUTHORITIES

Article 381 et seq., Code of Criminal Procedure

Article 382, Code of Criminal Procedure

LSA-R.S. 15-529.1

State of Louisiana v Carter, 559 So.2d 539 (La. App. 2nd Cir. 1990)

State v Butler, 322 So.2d 189 (La. 1975)

State v Ball, 554 So.2d 114 (La. App. 2nd Cir. 1989)

State v Odom, 511 So.2d 1214 (La. App. 2nd Cir. 1987) Writ denied
515 So.2d 446

Article 894.1 Louisiana Code of Criminal Procedure

IN THE SUPREME COURT FOR THE STATE OF LOUISIANA

NO: 93-KH-1154

HORACE TOPPINS, JR.

PETITIONER

VERSUS

JOHN P. WHITLEY, WARDEN
LOUISIANA STATE PENITENTIARY
ANGOLA, LOUISIANA

RESPONDENT

FILED: _____

DEPUTY CLERK

SUPPLEMENTAL AND AMENDING BRIEF

MAY IT PLEASE THE COURT:

FACTS

On December 15, 1986, Mrs. Simpson arrived home and saw a black male running from the front of her residence and getting in to yellow Ford Pinto sitting in front of the house. The driver of the vehicle was Doyle Simpson, her husband's cousin. When she entered the home, she found her husband lying in a pool of blood and immediately called the police. Later that afternoon detectives learned that the cousin, Doyle Simpson had been found hand cuffed to a tree.

After conducting photo line ups, relator was identified as the perpetrator seen leaving the scene with Doyle Simpson. Doyle Simpson was allegedly the victim of the armed robbery and second degree murder for which relator was charged.

ISSUES

The issues to be presented are:

1. Whether or not the Boykin Plea was valid.
2. Whether or not there was ineffectiveness of counsel.

ASSIGNMENT OF ERROR

1. Did the trial error in finding that there was a knowing, voluntary and willing plea of guilty rendered in this case in accordance with Boykin?

2. Did the trial court fail to ascertain and acknowledge that ineffective assistance of counsel existed in this case?

ARGUMENT

The foregoing facts considered, it is difficult to ascertain how relator could be charged with second degree murder and armed robbery when the victim Doyle Simpson, did not die and actually participated, prior to trial, in a photographic lineup. Secondly, a serious question arises as to why this "victim" was at the scene at all. Finally, as the record reflects, little or no evidence was obtained to indicate that an armed robbery occurred at all. Nevertheless, it is enough to state that the record reflects that a grand jury indictment for second degree murder is clearly erroneous. It is equally abundantly clear that the murder, attempted murder and alleged armed robbery were all part of the res gestae in this case. As such, no multiple bill is possible.

Article 381 et seq. of the Code of Criminal Procedure for the State of Louisiana provides that, in felony cases, the prosecution can be instituted by indictment or information. As the comments to the cited articles point out, and as more specifically provided in Article 382, the prosecution for second degree murder must be instituted by grand jury indictment. The only true bill which could have been returned by the grand jury in this case would have been one of attempted second degree murder. Obviously there must be a killing for second degree murder to exist. That being the case, a true bill for second degree murder is purely erroneous. Thus, the bill return should have been immediately amended to one of attempted second degree murder carrying a maximum penalty of fifty years at hard labor. Nevertheless, as the record clearly reflects, the State continued to prosecute the defendant through date of trial for second degree murder and armed robbery.

As part of the plea agreement with the State, the State agreed to dismiss the armed robbery charge and reduce the second degree murder charge to attempted degree murder (the appropriate charge in

the first place) in exchange for the defendants plea of guilty as charged. The agreed upon sentence was twenty one years concurrent with the manslaughter conviction in Jefferson Parish. However, as the record reflects, not only was the defendant advised by the State and defense counsel that all that was required for a conviction of second degree murder was the intent to inflict great bodily harm, but the court also advised defendant of this fact during the Boykin colloquy.

During colloquy, the court refused to accept the plea agreement entered into between the State and the defense asserting its own purrogative in sentencing matters and intimidated the defendant in to accepting a modified plea agreement asserting that the defendant was facing ninety six years in prison if convicted and that therefore he intended to sentence the defendant to thirty years. When the defendant questioned the basis for the ninety six years referred to by the judge, defense counsel indicated to defendant that the ninety six years was based on his being billed as a multiple offender. Obviously the defendant is not a multiple bill candidate pursuant to the provisions of LSA-R.S. 15:529.1. All the alleged offenses occurred during the res gestae and are considered a single transaction or occurrence thus precluding multiple offender status. The advise of counsel in this case was clear error.

In State of Louisiana v Carter, 559 So.2d 539 (La. App. 2nd Cir. 1990), the court was called upon to rule as to whether or not the inclusion of the phrase "or to inflict great bodily harm" constituted reversible error relative to an attempted second degree murder. cf State v Butler, 322 So.2d 189 (La. 1975), and State v Ball, 554 So.2d 114 (La. App. 2nd Cir. 1989) and State v Odom, 511 So.2d 1214 (La. App. 2nd Cir. 1987), Writ denied 515 So.2d 446.

In Carter, the district attorney made repeated reference to the jury that to inflict great bodily harm can serve as the basis for a conviction of attempted second degree murder. While this case does not involve instruction to the jury relative to the infliction of great bodily harm, the issue is not moot. Rather,

the issue becomes one of a knowing, willing and voluntary waiver of constitutional rights and a plea of guilty. Pursuant to Boykin, it is required that the defendant be informed of the nature of the allegations being made against him and that he fully understands the facts and circumstances supporting the charge. In the instant case, relator was informed that the intent to inflict great bodily harm was all that was necessary for the State to prove in order to sustain a finding of guilt pursuant to second degree murder. Obviously this is not the case. If a jury can not be held to make a knowing decision due to erroneous instructions, how can the defendant, whose very freedom depends on his making a knowing and intelligent waiver of his constitutional rights be held to any lesser standard.

To further exacerbate the situation, in the instant case, the defendant was told that he would receive in excess of ninety (90) years imprisonment if convicted. There is absolutely no discussion in the record to indicate what, if anything, would serve as the basis for such an extended term of incarceration. While it is true that the defendant was charged with attempted second degree murder, carrying a maximum penalty of fifty years, and with armed robbery, which carries a maximum of ninety nine years, the return on the search warrant conducted January 2, 1987, failed to disclose any evidence which would in any way substantiate the conviction of armed robbery. The search warrant returned which was enclosed in the original application filed by relator, disclosed that the police recovered a brown leather coat (as opposed to a jacket), 2 R.P. Luger 9mm rounds, one .32 caliber Smith and Wesson round and eight photographs of the defendant.

Important to note is the fact that the photographs depicted multiple bruises on the defendant's body. No weapon nor any property allegedly taken during the armed robbery was ever recovered.

As with many of these cases, it is difficult to assess what was going on through the minds with the prosecuting attorney and appointed defense counsel at the time that the plea agreement was

entered. Whether or not the State intended to proceed under the felony murder doctrine or to proceed on the two charges independently is unclear. However, the evidence would tend to indicate that the greatest likelihood of success at trial would have been to pursue an aggravated battery. The only evidence available to support a conviction for either attempted second degree murder or armed robbery was the testimony of the victim who, as stated hereinabove, would have to explain why he was sitting in front of the murder victims house with engine running.

Continuing, a conviction of armed robbery and/or attempted second degree murder must by law be run concurrent with the manslaughter conviction. Louisiana Code of Criminal Procedure Article 883. Thus, the only way the defendant could have received a sentence in excess of ninety years is if the court gave the defendant in excess of ninety years for the armed robbery conviction along. The facts in this case clearly do not support the imposition of a ninety year sentence.

As argued in relator's brief, page 20, appointed counsel informed relator that the judge intended to, by bill of information filed by the State, charge the defendant as a multiple offender. This is clearly contrary to law.

Finally, the plea agreement reached between the State and defense counsel and relator was for a twenty one year sentence concurrent with the Jefferson Parish conviction. The judge by changing the agreement through a sentence of thirty years coupled with the courts inclusion of "intent to inflict great bodily harm" language as well as the reference to a term in excess of ninety years clearly vitiated any possibility that a knowing, willing and intentional labor or constitutional rights pursuant to Boykin existed in this case.

Relator has further argued that ineffective assistance of counsel occurred when Mr. Regan withdrew as counsel of record at a critical stage of the proceeding for non-payment of fees thus requiring the appointment of Mr. Landry. While the record presented to undersigned counsel does not specifically support that

argument, the record does reflect that Mr. Landry was appointed by the court to replace Mr. Regan who had withdrawn. At the very least, and evidentiary hearing would clear the confusion as to this issue unless of course the record presented to this Honorable Court adequately addresses the issue.

Finally, the Fifth Circuit Court of Appeals indicated that the mandates of Article 894.1 of the Code of Criminal Procedure were adequately addressed by the trial court due to the fact that it ordered the sentence of thirty (30) years to be run concurrent with the twenty one (21) years sentence issued in Jefferson Parish. While the record of the sentencing and plea conducted on March 6, 1989 clearly reflects that the judge in fact made the statement, Article 883 mandates that the sentences be run concurrently in any event. However, this does not end the issue.

Article 894.1 goes much further then to simply order concurrent time which in this case is mandated by law anyways. The judge is required to review all facts and circumstances to determine whether or not any aggravating or mitigating factors existed which would justify an upward or downward departure from the sentencing guidelines. While it is true that the sentencing guidelines were not in effect at the time of this offense, they stand as a backdrop and basis for comparison by which to assess the excessiveness of the sentence.

A review of the sentencing guidelines reveals that armed robbery and attempted second degree murder are both category I offenses. Thus the overall range recommended is from a minimum of sixty months to a maximum of three hundred and sixty months. Because a plea was entered on attempted second degree murder only and because no prior criminal history was developed, at least on the record, to satisfy an increase classification, grid G where it intersects with Grid I should have served as the basis for sentencing. However, even assuming that the clerk properly considered the manslaughter conviction in Jefferson Parish, this added the three points bringing the defendant to a minimum class C classification. The maximum sentence recommended under this Grid

(C-1) is twenty (20) years. With the minimum being seventeen and one half (17 1/2) years. Thus the sentence imposed was greatly disproportionate with the sentencing guidelines.

While the trial court retains great discretion in sentencing matters, there must be a reasonable articulation of factors considered when departing from the established guidelines. In this particular case, there was no articulation in the record of any factors considered other than a statement by the trial court that the sentences would run concurrent.

In sum, no justification existed in the record for the drastic upward departure from the recommended guidelines.

In sum, as with Carter and Ball cited herein, the issue of whether or not intent to cause great bodily harm was included within the plea negotiation goes to directly to whether or not the plea was a knowing, willing and/or voluntary waiver of constitutional waiver of rights. When the misstatement the facts necessary to support the charge is coupled with erroneous information from the trial court and appointed counsel as to multiple offender status and the maximum exposure of jail time, it is herein asserted that in no sense could there be a knowing, willing and/or voluntary waiver of the constitutional rights as required by Boykin. Contrariwise, the record will reflect and does reflect that there is a purposeful intent to intimate or coerce the defendant in to accepting a plea. Considering that the record reflects that the original plea agreement was for a twenty one year concurrent sentence, it is clear that intimidation and coercion in fact occurred.

For the foregoing reasons, it is herein asserted that the record in this matter is clear relative to the issue of ineffective assistance of counsel, a violation of a plea agreement and that a knowing, voluntary and willing waiver of the defendant's constitutional rights was not had in this matter. When these factors are considered along with the fact that an upward departure from the sentencing guidelines is not justified by the record, it is abundantly clear that the plea and sentence in this matter

should be vacated and the case remanded for a new proceeding. Alternatively, this Honorable Court, after reviewing the facts and circumstances of this case, should uphold the original plea agreement that being for twenty one years at hard labor concurrent with the Jefferson Parish conviction.

Respectfully submitted



ARCENIOUS F. ARMOND, JR.
La. Bar No. 20678
401 Whitney Avenue, Suite 403
Gretna, Louisiana 70056
(504) 367-1099

AFFIDAVIT

STATE OF LOUISIANA

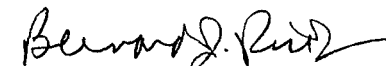
PARISH OF JEFFERSON

BEFORE ME, personally came and appeared ARCENIOUS F. ARMOND, JR., who, after being duly sworn, deposed that he is the attorney for Horace Toppins, Sr., plaintiff-appellant, and that all the allegations in the foregoing petition are true and correct, and that a copy of this supplemental petition has been duly served upon the opposing counsel for the defendant-appellee and the Fifth Circuit Court of Appeal on the ____ day of _____, 1994, by placing a copy of it addressed to them in the United States Mail.


ARCENIOUS F. ARMOND, JR.

Sworn to and Subscribed before me

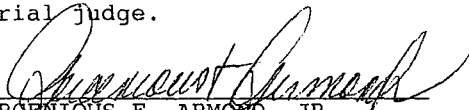
this 28TH day of MARCH, 1994



NOTARY PUBLIC

CERTIFICATE OF SERVICE

I do hereby certify that a copy of this Supplemental and Amending Brief has been served on all counsel of record and the trial judge.


ARCENIUS F. ARMOND, JR.

Appeals Court

Fifth Circuit Court of Appeals
Courthouse Annex, 4th Floor
Gretna, Louisiana 70005

Trial Judge

Hon. G. Walton Caire
40th Judicial District Court
Parish of St. John the Baptist

Opposing Counsel

Hon. John M. Crum, Jr.
District Attorney
Parish of St. John the Baptist
P. O. Box 6
Edgard, Louisiana 70049

1881 51

33/21

State of Louisiana
 TWENTY-FOURTH JUDICIAL DISTRICT COURT
 IN AND FOR THE
 Parish of Jefferson

DIV. J

JUDGE
 JACOB L. KARNO

NO. 87-10

STATE OF LOUISIANA

VS

HORACE TOPPINS, JR.

TO: THE RIVER PARISHES MEDICAL CENTER
 MRS. CAROLYN MADERE, MEDICAL RECORDS CUSTODIAN
 500 RUE DE SAINTE
 LAPLACE, LOUISIANA 70068

GREETING: MRS. MADERE

You are hereby commanded in the name of the State of Louisiana and of the 24th
 Judicial District Court for the Parish of Jefferson, to produce in open Court on the 24TH
 day of AUGUST, 19 87, at 10:00 o'clock a. m., or any other day to which
 this case shall be continued, the following, to-wit:

DOYLE SIMPSON, D.O.B. 8-20-57

FOR ALL MEDICAL SERVICES, TREATMENT AND DIAGNOSTIC TESTS HE RECEIVED
 AS A RESULT OF THE INJURIES SUSTAINED ON DECEMBER 15, 1986.

And herein fail not under penalty of the law.

WITNESS the Honorable RAOUL A. GALAN, JR., CLERK OF COURT
 of said 24th Judicial District Court, this 14th day of
 JULY, 19 87

Maurice Leard
 Deputy Clerk

186



RIVER PARISHES MEDICAL CENTER

AT WEST AIRLINE HIGHWAY • LAPLACE, LOUISIANA 70068

CONDITIONS OF ADMISSION & OR TREATMENT

ADDRESSOGRAPH

128467 1000F

1. **GENERAL DUTY NURSING:** The hospital provides only general duty nursing care. Under this system nurses are called to the bedside of the patient by a signal system. If the patient is in such condition as to need continuous or special duty nursing care, it is agreed that such must be arranged by the patient, or his legal representative, or his physician, and the hospital shall in no way be responsible for failure to provide the same and is hereby released from any and all liability arising from the fact said patient is not provided with such additional care.
2. **MEDICAL AND SURGICAL CONSENT:** The patient is under the control of his attending physicians and the hospital is not liable for any act or omission in following the instructions of said physicians. The undersigned consents to any x-ray examination, laboratory procedure, anesthesia, medical or surgical treatment, tests for diagnostic research or scientific purposes and any other hospital service rendered the patient under the general and special instructions of the physicians. The undersigned recognizes that all doctors of medicine furnishing services to the patient, including the radiologist, pathologist, anesthesiologist, and the like, are independent contractors and are not employees or agents of the hospital.
3. **PERSONAL VALUABLES:** It is understood and agreed that the hospital maintains a safe for the safekeeping of money and valuables, and the hospital shall not be liable for the loss or damage to any money, jewelry, documents, furs, fur coats and fur garments or other articles of unusual value and small compass, unless placed therein, and shall not be liable for loss or damage to any other personal property, unless deposited with the hospital for safekeeping. Valuables may be retrieved only during normal business office hours.
4. **RELEASE OF INFORMATION:** The hospital may disclose all or any part of the patient's record to any person or corporation which is or may be liable under a contract to the hospital or to the patient or to a family member or employer of the patient for all or part of the hospital's charge, including but not limited to, hospital or medical service companies, insurance companies, and workers' compensation carriers.
5. **ASSIGNMENT OF INSURANCE BENEFITS:** In the event the undersigned is entitled to hospital benefits of any type whatsoever arising out of any policy of insurance insuring the patient or any party liable to the patient, said benefits are hereby assigned to River Parishes Medical Center for application to the patient's bill, and it is agreed that River Parishes Medical Center may receipt for any such payment and such payment shall discharge the said insurance company of any and all obligations under the policy to the extent of such payment, the undersigned and/or patient being responsible for all charges not covered by this assignment.
6. **STATEMENT TO PERMIT PAYMENT OF HOSPITAL AND MEDICAL INSURANCE BENEFITS TO HOSPITAL** (Where applicable). The undersigned patient hereby certifies that the information given him in applying for payment under titles XVIII and XIX of the Social Security Act is correct and the hospital is authorized to release any information needed to act on this request. The undersigned patient also hereby request that payment of authorized benefits be made in his behalf, and hereby assigns to River Parish. The patient understands he is responsible for any health insurance deductibles and the uninsured percentage of the remaining reasonable charges.
7. **FINANCIAL AGREEMENT:** The undersigned agrees, whether he signs as agent or as patient, that in consideration of the services to be rendered to the patient, he hereby individually obligates himself to pay the account of River Parishes Medical Center within five (5) days of the rendering of the final bill unless a verified form of third party reimbursement has been presented to and accepted by the Hospital. That until such time as the account is paid in full, the hospital, its attorney, and/or collection agency may:
 - A) Utilize the resources of a consumer credit reporting bureau;
 - B) Contact the patient or patient's agent either in writing or by telephone while in the hospital and residence during normal hours to discuss or request payment of the account and;
 - C) Contact the patient's employer for the purpose of employment verification. Should the account be referred to a collection agency and/or attorney for collection, the undersigned shall pay all court costs and attorney fees.

DATE

WITNESS

PATIENT

PATIENT AGENT OR REPRESENTATIVE

RELATIONSHIP TO PATIENT

A copy of this document will be delivered to the patient.

B.O. 3 5/82

CHART

**RIVER PARISHES MEDICAL CENTER**

LAPLACE • LOUISIANA

PATIENT HISTORY

DOYLE SIMPSON

ICU

HOSPITAL REGULATIONS:

ALL POSITIVE AND IMPORTANT NEGATIVE FINDINGS SHALL BE RECORDED.

Date 12-15-86

Time _____

A. M.
P. M.**ORDER OF
RECORDING**

1. Chief Complaint
2. History of Present Illness
3. History of Past Illness
 - a) childhood
 - b) adult
 - c) operations
 - d) injuries
 - e) drugs
4. Family History
5. Social History
6. Systemic Review
 - a) General
 - b) Skin
 - c) Head—Eyes—Ears—Nose—Throat
 - d) Neck
 - e) Respiratory
 - f) Cardiovascular
 - g) Gastro-intestinal
 - h) Genito-urinary
 - i) Gynecological
 - j) Locomotor
 - k) Neuro-psychiatric
7. Signature

HISTORY:

This 29 year old black male who was abducted in a murder situation in Kenner and found in Edgard, La. after sustaining two gunshot wounds to the left chest. The patient was able to be brought to gas station in the vicinity and ambulance was called. The patient was ultimately transferred to this hospital for care.

On arrival the patient was alert, vital signs were stable from the time of his initial evaluation by the EMTs and the patient was found to be in what appeared to be reasonably satisfactory condition.

Patient's initial blood pressure 114/60. Pulse 90s. Patient was unable to speak but he was breathing reasonably well although he did complain of some difficulty. His respiratory rate was about 20 to 24 and nonlabored at the time of admission.

Patient denied any previous history of problems with his voice. He denied any previous history of problems with his left arm. The patient sustained two wounds which appeared to enter over the left scapula with an exit wound over the right neck. The other wound appears to have tracted through the trapezius on the left side with re-entrance to the neck on the left side posterolaterally with a bullet not obviously exiting any other area of the neck. After some coaxing the patient was able to speak in a hoarse low voice. He is was unable to phonate well and did not appear to be able to pronounce the left E suggesting voice cord injury or paralysis.

PAST MEDICAL HISTORY: Essentially negative. The patient denies any specific medical problems in the past. He also specifically denies any problems with his voice or neck prior to this injury. He also denied problems with his left arm prior to this injury.

ALLERGIES: NONE.

PRESENT MEDICATIONS: NONE.

CONTINUED ON PAGE 2

SIGNATURE _____

M.D.



RIVER PARISHES MEDICAL CENTER

LAPLACE • LOUISIANA

PATIENT HISTORY

DOYLE SIMPSON

HISTORY PAGE 2

HOSPITAL REGULATIONS:

ALL POSITIVE AND IMPORTANT NEGATIVE FINDINGS SHALL BE RECORDED.

Date _____

Time _____

A. M.

P. M.

He also specifically denies the use of drugs.

ETHANOL: The patient admits to a modestly heavy intake of alcohol, associated with afternoons after work. The patient is presently not working, but is ordinarily a construction worker.

REVIEW OF SYSTEMS:

No previous history of neurologic or head problems. Denies any previous history of breathing difficulty, shortness of breath, or asthma. No heart problems in the past. No specific abdominal problems.

ORDER OF RECORDING

1. Chief Complaint
2. History of Present Illness
3. History of Past Illness
 - a) childhood
 - b) adult
 - c) operations
 - d) injuries
 - e) drugs
4. Family History
5. Social History
6. Systemic Review
 - a) General
 - b) Skin
 - c) Head—Eyes—Ears—Nose—Throat
 - d) Neck
 - e) Respiratory
 - f) Cardiovascular
 - g) Gastro-intestinal
 - h) Genito-urinary
 - i) Gynecological
 - j) Locomotor
 - k) Neuro-psychiatric
7. Signature

dd 12-15-86
dt 12-16-86 cs

SIGNATURE

M.D.

WAYNE ROBICHAUX, M., D.

NS 35 REV. 8/82

**RIVER PARISHES MEDICAL CENTER****LAPLACE • LOUISIANA
PHYSICAL EXAMINATION**

DOYLE SIMPSON

**HOSPITAL REGULATION:
ALL POSITIVE AND IMPORTANT NEGATIVE FINDINGS SHALL BE RECORDED.****ORDER OF
RECORDING**

1. General
2. Skin
3. Eyes
4. Ears
5. Nose
6. Mouth
7. Throat
8. Neck
9. Chest
10. Heart
11. Abdomen
12. Genitalia
13. Lymphatic
14. Blood Vessels
15. Locomotor
16. Extremities
17. Neurological
18. Rectal
19. Vaginal
20. Diagnosis
21. Signature

Date _____ Time _____ A. M.
P. M.
Temp. _____ Pulse 90 Resp. 20-24 Blood Pressure 114/60**GENERAL:**

Respirations between 20-24 without difficulty, however the patient does complain of some difficulty breathing.

HEAD AND NECK:

Pupils equal and react to light and accommodation. Extraocular muscles are intact. Ears appear to be free of injury. No evidence of blood in the posterior mastoid areas. Throat has blood in the posterior oropharynx. As noted the patient is able to speak in a low hoarse voice. He is unable to produce the sound of the letter E.

The patient has an exit wound in the right anterior sternocleidomastoid area about the mid portion of the neck. He has a tangential exit and entrance wound of the trapezius in the posterolateral aspect of the left neck. There is a modest amount of bleeding from all areas. He has bilateral neck hematomas with large amount of swelling. However there is no respiratory compromise. He does however have some crepitation palpable over the anterior and lateral neck especially on the right side. There are no bruits audible over the carotid arteries. Good pulsations are identified in the neck on both sides.

CHEST: He has two entrance wounds over the mid to lower left scapula, otherwise the chest is clear bilaterally to auscultation with no evidence of pneumothorax on x-ray.

HEART: Regular rate and rhythm. No murmurs or gallops.

ABDOMEN: Soft. Bowel sounds are active. No evidence of injuries to the abdomen.

BACK: Negative. No evidence of injuries to the back in the lower portion.

EXTREMITIES: Nonswollen, nontender.

VASCULAR: 2 to 3+ pulses in both radial arteries equal with no evidence of deficits, especially noted on the left.

CONTINUED ON PAGE 2

NS-36

SIGNATURE

MI



RIVER PARISHES MEDICAL CENTER

LAPLACE • LOUISIANA

PHYSICAL EXAMINATION

DOYLE SIMPSON

PAGE 2 PHYSICAL

HOSPITAL REGULATION:

ALL POSITIVE AND IMPORTANT NEGATIVE FINDINGS SHALL BE RECORDED.

Date _____ Time _____ A.M.
P.M.

Temp. _____ Pulse _____ Resp. _____ Blood Pressure _____

VASCULAR CONTINUED:

Normal pulses in the foot at the ankle without evidence of deficits.

ORDER OF RECORDING

1. General
2. Skin
3. Eyes
4. Ears
5. Nose
6. Mouth
7. Throat
8. Neck
9. Chest
10. Heart
11. Abdomen
12. Genitalia
13. Lymphatic
14. Blood Vessels
15. Locomotor
16. Extremities
17. Neurological
18. Rectal
19. Vaginal
20. Diagnosis
21. Signature

NEUROLOGICAL:

Lower extremities, gross motor and sensory are intact and equal without evidence of deficits. The right arm is entirely normal. The left arm exhibits extensor weakness of the left wrist with inability to extend the left wrist. There is much weakness to extension of the forearm at the elbow. There is anesthesia over the dorsum of the lower arm and wrist on the left side, and to the radial nerve distribution, otherwise the patient is entirely intact and does not appear to have spinal cord injury.

X-rays showed no pneumohemothorax. AP lateral and odontoid views show no evidence of C-spine injuries or fractures. There is free air in the mediastinum and swelling of the prevertebral area, but no evidence of bone injuries. Patient's flexion and extension views of the neck show no evidence of problems with the neck as well. Gastrograffin swallow was performed, no evidence of extravasation of the esophagus could be identified. Chest x-ray again showed no pneumohemothorax.

IMPRESSION:

The tract of the bullets both entered into the left scapula. One bullet exited over the lateral trapezius and re-entered the neck in the posterolateral aspect near the line of the trapezius, coming to lodge in the posterior base of the skull as exhibited on x-rays. The other bullet appears to have entered into the medial aspect of the scapula and burrowed through the trapezius and entered the posterior neck crossing the midline in the area of the posterior oropharynx or hypopharynx with an exit from the right neck and anterior sternocleidomastoid border. The patient does not have a neurologic

CONTINUED ON PAGE 3 OF PHYSICAL

SIGNATURE

M.D.

**RIVER PARISHES MEDICAL CENTER**

LAPLACE • LOUISIANA

PHYSICAL EXAMINATION

DOYLE SIMPSON

PHYSICAL PAGE 3

HOSPITAL REGULATION:

ALL POSITIVE AND IMPORTANT NEGATIVE FINDINGS SHALL BE RECORDED.

Date _____ Time _____ A. M.
P. M.

Temp. _____ Pulse _____ Resp. _____ Blood Pressure _____

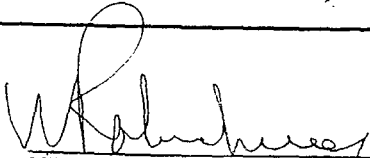
**ORDER OF
RECORDING**

1. General
2. Skin
3. Eyes
4. Ears
5. Nose
6. Mouth
7. Throat
8. Neck
9. Chest
10. Heart
11. Abdomen
12. Genitalia
13. Lymphatic
14. Blood Vessels
15. Locomotor
16. Extremities
17. Neurological
18. Rectal
19. Vaginal
20. Diagnosis
21. Signature

deficit suggesting spinal cord injury. He does however have a neurologic deficit suggesting injury to the radial nerve on the left. Additionally there is no evidence of vascular injury except for the tissue damage and bleeding from tracts of the bullet.

Patient will be taken to surgery. Bronchoscopy, pharyngoscopy, esophagoscopy will be performed, followed by exploration of both necks to expose both arteries and identify any injuries in this area and repair them.

dd 12-15-86
dt 12-16-86 cs


SIGNATURE _____ M.D.
WAYNE ROBICHAUX, MD.

RIVER PARISHES MEDICAL CENTER

PREADMIT ☐ PATIENT ACCOUNT #

LAPLACE

LOUISIANA

Expected Date

128467

PATIENT LAST NAME SIMPSON		FIRST NAME DOYLE		FC P	SEX M	RACE B	AGE 29	BIRTHDATE 9-20-57	
ADMIT. CAT. ER	ADMIT DATE 12-15-86	ADMIT TIME 15:34	NURSE STATION IN	ROOM/BED 1000 F	ACCOM. I	PT. TYPE I	HOSP. SV. ST	SMOKING Y <input type="checkbox"/> N <input checked="" type="checkbox"/> XX	RELIGION OT
ST. PHYS. ROBICHAUX		DR. # 035	BIRTHPLACE (CITY, STATE) NA		SOC. SEC. # (PATIENT) NA		REV. ADM. DATE & NAME NA		
PATIENT'S PERMANENT MAILING ADDRESS				CITY	STATE	ZIP	AREA CODE & PHONE NO.		
1504 MOISANT DR				KENNER LA	70062	504 466 5744			
NEAREST RELATIVE LAST NAME, FIRST SIMPSON CLYDE		RELATIONSHIP COUSIN	ADDRESS 1504 XXXXX MOISANT DR KENNER LA		CITY	STATE	ZIP	AREA CODE & PHONE NO. 504 466 5744	
EMERG. CONTACT LAST NAME, FIRST NA		RELATIONSHIP NA	ADDRESS NA		CITY	STATE	ZIP	AREA CODE & PHONE NO.	
PATIENT'S EMPLOYER LAID OFF / O'NEIL BROS CONST.				ADDRESS ?	CITY	STATE	ZIP	AREA CODE & PHONE NA	
MARITAL STATUS NA	MAIDEN NAME NA	MOTH./NB Y <input type="checkbox"/> N <input type="checkbox"/>	ADMIT. DIAGNOSIS/COMPLAINT						
GUARANTOR LAST NAME, FIRST SIMPSON DOYLE		RELATIONSHIP SELF	ADDRESS 1504 MOISANT DR		CITY	STATE	ZIP	AREA CODE & PHONE NO. 504 466 5744	
GUARANTOR-A/C & PHONE 504 466 5744		GUARANTOR EMPLOYER LAID OFF		JOB TITLE NA		AREA CODE & PHONE NO. NA			
GUARANTOR'S EMPLOYER ADDRESS NA				CITY	STATE	ZIP	GUARANTOR SOC. SEC. # NA		
INS. CO. PERSONAL PAY	PLAN # NA	INS. CO. NAME NA		GROUP #	POLY #	SUBSCRIBER		RELATIONSHIP	

I hereby authorize River Parishes Medical Center to release medical information to my insurance company or employer. (Guarantor Signature) _____ Date _____

PRIMARY DIAGNOSIS		CODE(S)
Gun Shot wound to Back & Neck with Supraglottic throat injury		876.0
OTHER DIAGNOSIS		
Radial nerve injury		955.3
		507.0
DATE 12-15-86	OPERATIVE PROCEDURES	CODE(S)
	Bilat. neck exploration & repair of Supraglottic injury Bilat.	06.09
	Branchioplasty - Pharyngoplasty, Esophagoscopy	31.79
		82.59
		93.23
COMPLICATIONS		
Pneumonia, Aspiration		29.11
		42.23
INFECTION /		CAUSE OF DEATH

DISCH. DATE 12-25-86	DISPOSITION/OUTCOME
DISCHARGED	<input type="checkbox"/> AGAINST MED. ADVICE (See Reverse Side for Release) <input type="checkbox"/> E. C. F. <input type="checkbox"/> EXPIRED <input checked="" type="checkbox"/> AUTOPSY

CONSULTATION: *Metagleni*

I HAVE EXAMINED AND APPROVED THIS COMPLETED MEDICAL RECORD

SIGNATURE OF ATTENDING PHYSICIAN: *W. J. Robichaux*

DATE: *12/25/86*

CHART

Witnesses for the State

No. 87-0135

The State of Louisiana

VS.

HORACE TOPPINS JR.
7318 ALABAMA ST
NEW ORLEANS, LA

INDICTMENT FOR

3/6/89 amended ^{2nd}
Attempted First Degree Murder
R. S. 14:27 and R. S. 14:30
R.S. 14:30.1

A TRUE BILL

Richard H. Berger

Foreman of the Grand Jury,
Parish of
St. John the Baptist

Grand Jury Return
5-4-87 The grand jury
appeared in open court with
their return - Jury
polled - a quorum present
Indictment read aloud -
Grand Jury excused -

6-10-87 Def. absent and unrepresented
Court appts. Barry Landry to represent
def. through the FDB - Bond set 100,000.00

Notify Mr. Landry def. in Jefferson
Parish Jail and arr. set for Aug. 10, 1987

Notify Mr. Landry of this date.

6-12-87 Notice - D.A. 12-10-87.

8-10-87 Defendant present without counsel. Court
appointed Barry Landry to represent the defendant
through the Indigent Defender Board. Atty. Sterling
Snowdy stood in for arraignment purposes only.
Arr & pled not guilty. Given 30 days to file pleadings.
Answers filed by State. Defendant is referred back to
Jefferson Parish Correctional Institute

6-15-88 Cont'd to July 13, 1988.

8-10-88 Def present with atty Barry Landry. def was
re-arraigned and pled not guilty. def is to remain in
Jail. Defense is given 30 days to file pleadings.

9-6-88 Def. absent - Matter cont'd to be assigned.

1-9-89 Def present with atty Barry Landry. Trial set for
March 6, 1989.

2-8-89 Defendant present without counsel. 'Motion to Quash'
filed by defendant. Matter set for March 6, 1989 at 9:00 AM.
Def is to be returned to the Department of Corrections.

3-6-89 Def. present with Atty Barry Landry - Plea bargain reached -
Def is rear. on violation of R.S. 14:27 and 14:30.1 attempted second
degree murder - Def. is rear and pled guilty. Bargain given - D.A.'s
office advises the court of the facts in this case - All delays waived
in sentencing - Sentence - 30 yrs. with the Department of Corrections
to run concurrent with the sentence he is now serving for Jefferson
Parish - Credit for time served - Def. is remanded back to Angola -
In case # 87-137 State vs. Horace Toppins is ruled pressed - Refused to
plea in this case,

STATE OF LOUISIANA
VERSUS
HORACE TOPPINS, JR.
DOCKET NUMBER 87-135

40TH JUDICIAL DISTRICT COURT
PARISH ST. JOHN THE BAPTIST
STATE OF LOUISIANA
DIVISION "A"

EXTRACT OF THE MINUTES

FEBRUARY 8, 1989

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
G. CHARLES LORIO - ASSISTANT D.A.

Defendant present without counsel. Motion to Quash filed by
defendant. Matter set for March 6, 1989 at 9:00 A.M.
Defendant is to be returned to the Department Of Corrections.

MARCH 6, 1989

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
G. CHARLES LORIO - ASSISTANT D.A.

Defendant present with Attorney Barry Landry. Plea bargain
reached. Defendant is rearraigned on violation of R.S. 14:27
and 14:30.1, attempted second degree murder, & Defendant enter
a guilty plea. Boykin given, D.A.'s office advises court of
the facts in this case. All delays waived in sentencing.
Sentence 30 years with the Department of Correction to run
concurrent with the sentence he is now serving for Jefferson
Parish. Credit for time served. Defendant is remanded back
to Angola. Case number 87-137 "STATE OF LOUISIANA VERSUS
HORACE TOPPINS, JR., is Nolle Prossed by State, referred to
plea in case 87-135.

STATE OF LOUISIANA
VERSUS
HORACE TOPPINS, JR.
DOCKET NUMBER 87-135

40TH JUDICIAL DISTRICT COURT
PARISH ST. JOHN THE BAPTIST
STATE OF LOUISIANA
DIVISION "A"

EXTRACT OF THE MINUTES

JUNE 15, 1988

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
G. CHARLES LORIO - ASSISTANT D.A.

Cont'd to July 13, 1988.

AUGUST 10, 1988

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
G. CHARLES LORIO - ASSISTANT D.A.

Defendant present with Attorney Barry Landry. Defendant was re-arraigned and pled not guilty. Defendant is to remain in jail. Defense is given 30 days to file pleadings.

SEPTEMBER 6, 1988

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
G. CHARLES LORIO - ASSISTANT D.A.

Defendant absent. Matter cont'd to be assigned.

JANUARY 9, 1989

PRESENT: HONORABLE G. WALTON CAIRE
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
G. CHARLES LORIO - ASSISTANT D.A.

Defendant present with Attorney Barry Landry. Trial set for March 6, 1989.

- STATE OF LOUISIANA
VERSUS
HORACE TOPPINS, JR.
DOCKET NUMBER 87-135

40TH JUDICIAL DISTRICT COURT
PARISH ST. JOHN THE BAPTIST
STATE OF LOUISIANA
DIVISION "A"

EXTRACT OF THE MINUTES

May 4, 1987

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
JOHN DIASSELLISS - ASSISTANT D.A.

The Grand Jury appeared in open court with their return. Jury polled. A quorum present Indictment read aloud. A True Bill. Grand Jury excused.

June 10, 1987

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
G. CHARLES LORIO - ASSISTANT D.A.
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
THOMAS DALEY - ASSISTANT D.A.

Defendant absent and unrepresented. Court appointed attorney Barry Landry to represent defendant through I.D.B. Bond set \$100,000.00. Notify Mr. Landry. Defendant in Jefferson Parish Jail and Arraignment set for August 10, 1987. Notify Mr. Landry of this date.

August 10, 1987

PRESENT: HONORABLE G. WALTON CAIRE - JUDGE
G. CHARLES LORIO - ASSISTANT D.A.
GEORGE ANN GRAUGNARD - ASSISTANT D.A.
THAOMAS DALEY - ASSISTANT D.A.

Defendant present without counsel. Court appointed Barry Landry to represent the defendant through the I.D.B. Attorney Sterling Snowdy stood in for arraignment purpose only. Defendant arr. & pled not guilty. Given 30 days to file pleadings. Answers filed by State. Defendant is referred back to Jefferson Parish Correctional Institute.

STATE OF LOUISIANA

40TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF ST. JOHN THE BAPTIST

HORACE TOPPINS, JR.

STATE OF LOUISIANA

DOCKET NUMBER 87-135

DIVISION "A"

CHRONOLOGICAL INDEX

<u>DATED FILED</u>	<u>PLEADINGS OR DOCUMENTS FILED</u>	<u>PAGE</u>	<u>VOLUME</u>
Feb. 24, 1989	Petition And Order For A Writ Of Habeas Corpus Ad Prose- quendum	72-74	I
March 2, 1989	Petition And Order For A Writ Of Habeas Corpus Ad Prose- quendum	75-77	I
March 6, 1989	Extract Of The Minutes Of The Session Of Court Held	78	I
Nov. 29, 1989	Transcript Of Testimony And Proceedings	79-91	I
Jan. 12, 1990	Letter To Judge G.W. Caire From The Defendant	92	I
Jan. 22, 1990	Letter From Defendant	93	I
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May 19, 1992	Order	101	I
May 19, 1992	Memorandum Of Points And Authorities In Support Of Application For Post-Con- viction Relief	102-116	I
Sept. 11, 1992	Motion For summary Disposition	117-120	I
Jan. 5, 1993	Motion For Appeal	121-123	I
Feb. 26, 1993	Notice Of Appeal, Criminal Case	124	I
MARCH 11, 1993	Certificate Of the Clerk Of Court	125	I

STATE OF LOUISIANA
VERSUS
HORACE TOPPINS, JR.
DOCKET NUMBER 87-135

40TH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST
STATE OF LOUISIANA
DIVISION "A"

CHRONOLOGICAL INDEX

<u>DATED FILED</u>	<u>PLEADINGS OR DOCUMENTS FILED</u>	<u>PAGE</u>	<u>VOLUME</u>
	CHRONOLOGICAL INDEX	1-2	I
	Extract of the Minutes	3-5	I
May 4, 1987	Indictment	6	I
May 12, 1987	Petition and Order For A Writ Of Habeas Corpus Ad Prosequendum	7-9	I
June 10, 1987	Petition And Order For A Writ Of Habeas Corpus Ad Prosequendum	10-12	I
June 23, 1987	Motion For A Preliminary Exam.	13-14	I
June 23, 1987	Motion For Discovery, Bill Of Particulars and Motion For Production	15-23	I
July 14, 1987	Motion For Discovery Of Defense Alibi Witnesses	24-25	I
July 14, 1987	Motion For Discovery By State	26-27	I
Feb. 26, 1988	Petition And Order For A writ Of Habeas Corpus Ad Prosequendum	28-30	I
Feb. 26, 1988	Petition And Order For A Writ Of Habeas Corpus Ad Prosequendum	31-33	I
Feb. 29, 1988	Order; Pre-Trial Conference And Trial Date	34-35	I
July 13, 1988	Petition And Order For A Writ Of Habeas Corpus Ad Prosequendum	36-38	I
Nov. 3, 1988	Petition And Order For A Writ Of Habeas Corpus Ad Prosequendum	39-41	I
Nov. 3, 1988	Order; Pre-Trial Conference And Trial Date	42-43	I
Nov. 3, 1988	Petition And Order For A Writ Of Habeas Corpus Ad Prosequendum	44-46	I
Feb. 15, 1989	Amended Answer To Motion For Discovery, Bill Of Particulars Motion For Production	47-71	I

001

STATE OF LOUISIANA

VERSUS

HORACE TOPPINS, JR.

40TH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

NUMBER: 87-137 87-135

FILED:

89 FEB 23 PM 12:07

FILED FOR RECORD

CLERK OF COURT
PARISH OF ST. JOHN
THE BAPTIST, LA.

MOTION TO OBTAIN OUT OF STATE WITNESS

The State of Louisiana, appearing herein through the undersigned
Assistant District Attorney alleges that:

I.

Doyle Simpson, Route 1 Box 242 A, City of Winona, State of Mississippi, is a witness whose testimony is relevant and material in a prosecution pending in a Court of Record in this State, to wit: a proceeding entitled State of Louisiana Versus Horace Toppins, Jr., No. 87-135 and 87-137, of the docket of the 40th Judicial District Court, Parish of St. John the Baptist, State of Louisiana,

II.

The State of Mississippi has made provision under its law for commanding persons within its borders to attend prosecution or grand jury investigations commenced or about to commence in the State of Louisiana, and the State of Louisiana has reciprocal laws to the same effect,

III.

The presence of said witness to testify in the proceeding described herein will be required to 1 day at Edgard, Louisiana, on or about the 6th day of March, 1989.

IV.

Article 743 of the Louisiana Code of Criminal Procedure gives the witness protection from arrest and from the service of civil and criminal process.

V.

Mover is prepared to submit to this Court a certified check for such amount as the Court may direct and as required by law for tendering to said witness.

VI.

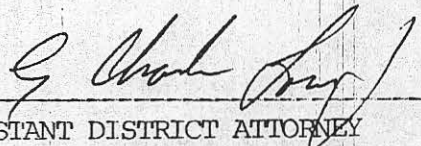
The Court should recommend that the witness be taken in custody and delivered to an officer of this State for transportation to the City of

2/28/89
Original + 1 Copy
(T. Perez)

Edgard, State of Louisiana, to assure his attendance in this State for the following reasons:

Mr. Doyle Simpson is a victim of an Attempted First Degree Murder.

WHEREFORE, the State of Louisiana prays that this Court issue a certificate , under the seal of this Court, certifying that Doyle Simpson, who resides at the aforesaid is a material witness in the proceeding herein described and that his presence to testify is needed for the period stated, and that said certificate be accompanied by a certified check for such sum as may be ordered by this Court as required by law to be tendered to said witness; and that this Court order that its certificate and the check be presented to a judge of a Court of Record in the county in which the said witness is found.



ASSISTANT DISTRICT ATTORNEY

STATE OF LOUISIANA
VERSUS
HORACE TOPPINS JR.

40TH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST
STATE OF LOUISIANA
NUMBER: 87-135 87-137

FILED FOR REWARD
89 FEB 15 PM 2:01
CLERK OF COURT
PARISH OF ST. JOHN
THE BAPTIST, LA.

AMENDED ANSWER TO MOTION FOR DISCOVERY, BILL OF PARTICULARS
MOTION FOR PRODUCTION

NOW INTO COURT comes John M. Crum, Jr. District Attorney, representing the State of Louisiana and in an Amended Answer to Motion for Discovery, Bill of Particulars and Motion for Production says:

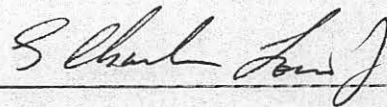
1.

The State amends answer number XVIII to reflect:

Yes, Martin Sylvan postively identified the defendant. This identification took place in St John the Baptist Parish on December 31, 1986. Will allow an inspection of all photographs used.

Also the victim, Doyle Simpson, postively identified the defendant on January 1, 1987. This identification took place in Winona Ms. in front of Det. Gallahger and Det. S. Caraway. Will allow an inspection of all photographs.

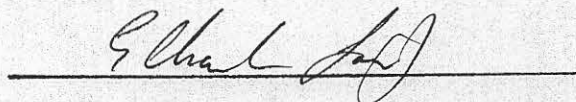
WHEREFORE RESPONDENT PRAYS THAT THIS AMENDED ANSWER BE DEEMED SUFFICIENT.

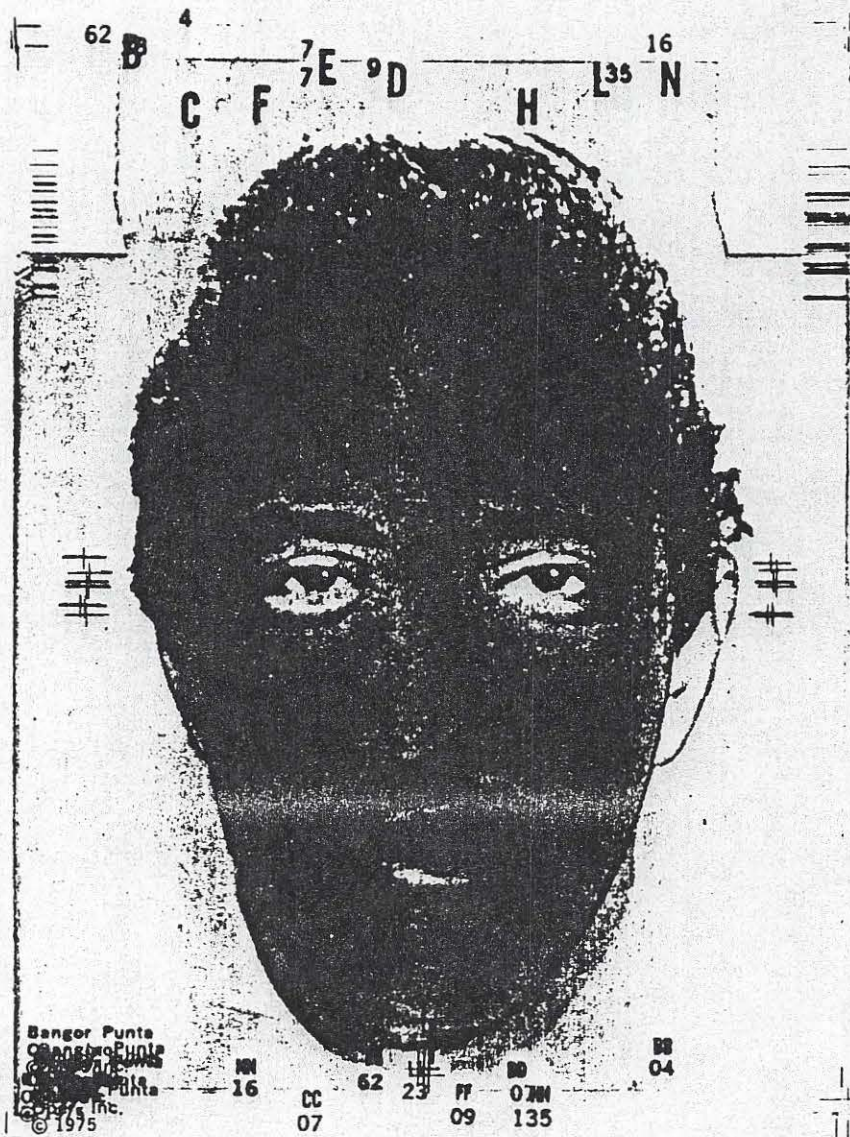


Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been duly served on all counsel of record herein by placing a copy of same in the U. S. mail, postage prepaid, this 15 day of Feb., 19 89.





LLOYD B. JOHNSON, SHERIFF
ST. JOHN PARISH SHERIFF'S OFFICE
LA PLACE, LOUISIANA

Use Reverse Side (Yellow Copy) For Additional Information

Item # 12-785-26 Officer's Signature _____

3-11
done

NO. 4950
VERSUS

AFFIDAVIT

STATE OF LOUISIANA

(1)

Parish of St. John the Baptist

Justice of the Peace

Horace Toppins Jr.

(DOB/10-11-50)

Lt. Paul L. Oubre

BEING DULY SWORN, DEPOSES AND SAY THAT ONE

Horace Toppins Jr.

LATE OF THE PARISH OF ST. JOHN THE BAPTIST,

IN THE SAID PARISH ON OR ABOUT THE 15th DAY OF December 19 86 DID COMMIT:
The crime of R.S.14:27/30 (Attempted 1st Degree Murder) and R.S.14:64 (Armed Robbery)

In that Horace Toppins Jr. has been positively identified by victim (Doyle Simpson)
as the individual who handcuffed him to a tree, robbing him of his wallet at gun point, then
shooting him twice once in the back and once in the neck and then leaving him for dead still
hand cuffed to the tree which was located approximately 1.6 miles West of the Texeco Service
Station on La. 3127 in Edgard, La. This victim was taken from the scene of a Homicide in Ken-
ner, La. by Horace Toppins Jr. held at gun point then forced to drive to scene of incident in
Edgard, La.

WHEREUPON THE DEPONENT PRAYS THAT THE SAID Horace Toppins Jr.

MAY BE ARRESTED AND FURTHER DEALT WITH ACCORDING TO LAW.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 2nd DAY OF January 19 87

Ht. Paul L. Oubre
PLAINTIFF

St. John Parish Sheriff's Office

P.O. Drawer Q, LaPlace, La.

PHONE 652-9514

Mrs. Ernest Bailey
JUSTICE OF THE PEACE
DISTRICT 4 AND

X

O. 4950
VERSUS

WRIT OF ARREST

(2)

STATE OF LOUISIANA
Parish of St. John the Baptist
Justice of the Peace

Horace Toppins Jr.
(DOB/10-11-50)

TO THE SHERIFF OR TO ANY CONSTABLE OF THE ST. JOHN THE BAPTIST,

HEREAS Lt. Paul L. Oubre HAS MADE COMPLAINT UNDER OATH THAT

Horace Toppins Jr. LATE OF THE PARISH OF ST. JOHN THE BAPTIST

ON THIS 15th DAY OF December 19 86 DID COMMIT:

The crime of R.S.14:27/30 (Attempted 1st Degree Murder) and R.S.14:64 (Armed Robbery)

In that Horace Toppins Jr. has been positively identified by victim (Doyle Simpson)
as the individual who handcuffed him to a tree, robbing him of his wallet at gun point, then
shooting him twice once in the back and once in the neck and then leaving him for dead still
hand cuffed to the tree which was located approximately 1.6 miles West of the Texeco Service
Station on La. 3127 in Edgard, La. This victim was taken from the scene of a Homicide in Ken-
ner, La. by Horace Toppins Jr. held at gun point then forced to drive to scene of incident in
Edgard, La.

YOU ARE THEREFORE COMMANDED, IN THE NAME OF THE STATE
OF LOUISIANA, FORTHWITH TO APPREHEND THE SAID Horace Toppins Jr.
AND BRING THIS ONE BEFORE ME, AT MY OFFICE IN THIS PARISH,
OR BEFORE SOME OTHER MAGISTRATE OF COMPETENT JURISDICTION, FOR EXAMINATION
AND TO BE FURTHER DEALT WITH ACCORDING TO LAW. GIVEN UNDER MY HAND, AT
THE PARISH OF ST. JOHN THE BAPTIST THIS 2nd DAY OF January 19 87

Lt. Paul L. Oubre

St. John Parish Sheriff's Office
P.O. Drawer Q, LaPlace, La.

PHONE 652-9514

Miss Ernest Bailey
JUSTICE OF THE PEACE
DISTRICT 4 AND

Lloyd B. Johnson



ST. JOHN THE BAPTIST PARISH SHERIFF AND EX-OFFICIO TAX COLLECTOR

P.O. DRAWER Q

PHONE 652-9581

La Place, Louisiana 70068

INTERROGATION: ADVICE OF RIGHTS

YOUR RIGHTS

NAME OF THE SUSPECT

Horace Toppins JR

AGE OF THE SUBJECT

Age 36

DOB/ 10-11-50

HIGHEST GRADE COMPLETED IN SCHOOL

WE WANT TO QUESTION YOU ABOUT Attempted 1st Degree
MURDER AND ARMED ROBBERY

BEFORE WE ASK YOU ANY QUESTIONS, WE WANT YOU TO UNDERSTAND YOUR RIGHTS.

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE YOU ANSWER ANY QUESTIONS AND YOU MAY HAVE THE LAWYER WITH YOU DURING QUESTIONING.

IF YOU WANT A LAWYER DURING QUESTIONING BUT CANNOT AFFORD ONE, A LAWYER WILL BE PROVIDED FOR YOU AT NO COST TO YOU PRIOR TO QUESTIONING.

IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME IN ORDER TO GET THE ADVICE OF A LAWYER OR FOR ANY OTHER REASON YOU MAY HAVE.

DO YOU UNDERSTAND YOUR RIGHTS?

(YES ☒ NO ☐)

ARE YOU WILLING TO ANSWER QUESTIONS AT THIS TIME WITHOUT A LAWYER?

(YES ☐ NO ☒)

HAVE ANY THREATS OR PROMISES BEEN MADE TO YOU OR HAS PRESSURE OF ANY KIND BEEN APPLIED TO INDUCE YOU TO ANSWER QUESTIONS OR TO GIVE UP ANY OF YOUR RIGHTS?

(YES ☐ NO ☒)

SUSPECT

Refused to Sign

PLACE

7318 ALABAMA ST. N.O. LA.

OFFICER

Det. Steve CARAWAY KPD.

DATE

1-2-87

WITNESS

H. Paul P. Paul

TIME

1:30 AM

WITNESS

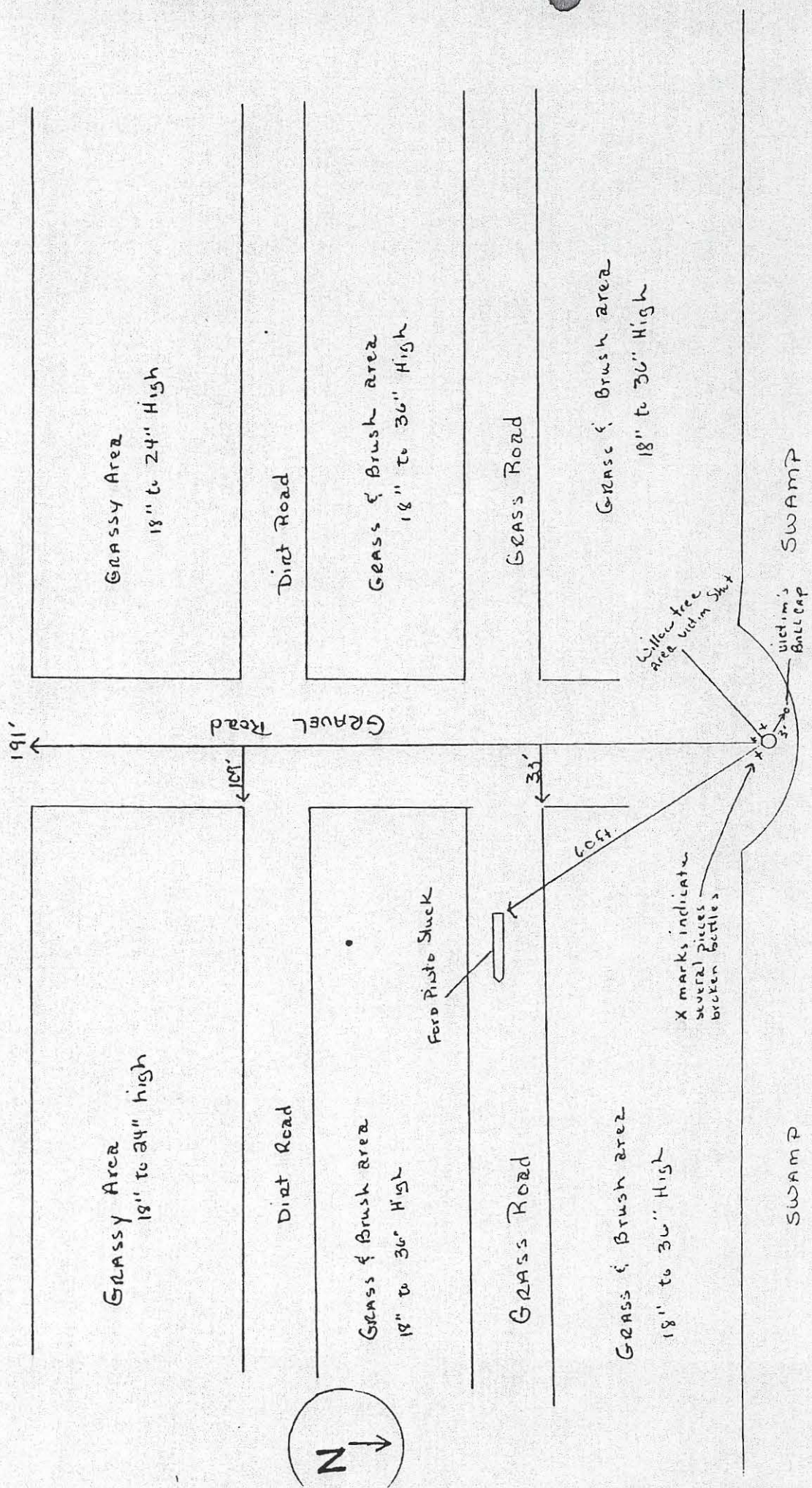
COMMENTS

Above suspect advised of rights by
Det. S. CARAWAY At time of arrest And
witnessed by Lt. P. Oubre, Det. Sgt. V. Bailey
And Det. B. Dinwaut.

057

SKETCH BY
By Lt. PAUL L. DUBIE
Not to scale

LA. 3127 West bound Lane



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CLERK OF COURT
PARISH OF ST. JOHN THE BAPTIST

FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST
STATE OF LOUISIANA

STATE OF LOUISIANA
vs.
HORAS TOMPKINS, JR.

No. 87-185
87-135
Division "A"

THE HONORABLE G. WALTON CAIRE
JUDGE

Transcript of Testimony and
Proceedings Taken in Open Court at
Edgard, Louisiana

MARCH 6, 1989

Reported By:

DAVID J. AUCOIN, C.S.R.
Official Court Reporter
Certified Shorthand Reporter
40th Judicial District Court

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APPEARANCES:

FOR THE STATE OF LOUISIANA

GEORGE ANN GRAUGNARD
ASSISTANT DISTRICT ATTORNEY
ST. JOHN THE BAPTIST PARISH

FOR THE DEFENDANT

BARRY LANDRY
109 W. 7th Street
Reserve, Louisiana

1 P R O C E E D I N G S

2
3 BY THE COURT:

4 87-135, State versus Horas
5 Tompkins Jr.

6 BY MS. GRAUGNARD.

7 Your Honor, may we approach the
8 bench.

9 BY THE COURT:

10 Yes.

11 BY MS. GRAUGNARD.

12 Your Honor in connection with
13 this plea negotiations entered into
14 between defendant and his counsel and
15 the State, the State would move that
16 the defendant be re-arraigned on the
17 charge of second degree murder Revised
18 Statute 14:30.1 and move that the
19 Indictment be amended to reflect the
20 charge of attempted second degree
21 murder, Your Honor.

22 BY THE COURT:

23 So order.

24 BY THE CLERK:

25 Horas Tompkins, Jr., on or about
26 the 15th day of December, 1986 you
27 are being charged with violation of

1 R. S. 14:27 and 14:30.1, attempt
2 second degree murder; how do you
3 plead?

4 BY THE DEFENDANT:

5 I plead under the Alford clause,
6 guilty.

7 BY THE COURT:

8 Alright, let the record indicate
9 that Mr. Thompkins is present in open
10 court with his court appointed
11 attorney, Mr. Barry Landry and was
12 duly arraigned on a charged of
13 Violaltion of R.S. 14:30.1 and R.S.
14 14:27, which is a charge of Attempted
15 Second Degree Murder, and entered a
16 plea of guilty.

17 Before accepting your plea is my
18 duty to ascertain if you have been
19 fully advised of all of your
20 constitutional rights and further
21 ascertain if your plea is freely,
22 voluntarily and knowingly entered.

23 What is your name?

24 BY THE DEFENDANT:

25 Horas Thompkins.

26 BY THE COURT:

27 How old are you?

1 BY THE DEFENDANT:
2 Thirty-eight.
3 BY THE COURT:
4 Has your counsel advised you of
5 your rights?
6 BY THE DEFENDANT:
7 Yes, sir.
8 BY THE COURT:
9 Do you understand that under the
10 law you are presumed to be innocent
11 until proven guilty beyon a reasonable
12 doubt, the burdon is not upon you to
13 prove your innocense but rather is
14 upon the District Attorney to prove
15 your guilt.
16 BY THE DEFENDANT:
17 Yes, sir.
18 BY THE COURT:
19 You understand that you have the
20 right to a trial by a Jury.
21 BY THE DEFENDANT:
22 Yes, sir.
23 BY THE COURT:
24 Do you understand that you have
25 the right to counsel, and the one you
26 have was appointed by the court to
27 represent you and he will continue to

1 represent you throughout your trial,
2 including an appeal, if one becomes
3 necessary.

4 BY THE DEFENDANT:

5 Yes, sir.

6 BY THE COURT:

7 Do you understand that you have
8 the right to be confronted by the
9 witnesses against you, that is, the
10 District Attorney must produce them in
11 open court where you can see them and
12 they can be cross-examined by your
13 counsel?

14 BY THE DEFENDANT:

15 Yes, I understand.

16 BY THE COURT:

17 Do you understand that you have a
18 privilege against self-incrimination,
19 that is, you don't have to take the
20 stand and testify and no one can force
21 you to do so?

22 BY THE DEFENDANT:

23 Yes, sir.

24 BY THE COURT:

25 Do you understand that in the
26 event of conviction you have the right
27 to appeal?

1 BY THE DEFENDANT:

2 Sure.

3 BY THE COURT:

4 Alright, sir, you are charged

5 with a very serious crime, that of

6 Attempted Second Degree Murder.

7 The elements of the crime are:

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" Any person who, having a specific intent to commit a crime, does or omits an act for the purpose of and tending directly toward the accomplishing of his object is guilty of an attempt to commit the offense intended; and it shall be immaterial whether, under circumstances, he would have actually accomplished his purpose.

An attempt is a separate but lesser grade of the intended crime; and any person may be convicted of an attempt to commit a crime, although it appears

1 on the trial that the crime
2 intended or attempted was
3 actually perpetrated by such
4 person in pursuance of such
5 attempt.

6 Whoever attempts to
7 commit any crime shall be
8 punished as follows:

9 (1) If the offense so
10 attempted is punishable by
11 death or life imprisonment,
12 he shall be imprisoned at
13 hard labor for not more than
14 fifty years.

15 Second degree murder is
16 the killing of a human
17 being:

18 (1) When the offender
19 has a specific intent to
20 kill or to inflict great
21 bodily harm; or.

22 (2) When the offender
23 is engaged in the
24 perpetration or attempted
25 perpetration of aggravated
26 rape, aggravated arson,
27 aggravated burbulary

1 aggravated kidnapping,
2 aggravated excape, armed
3 robbery, or simple robbery,
4 even though he has no intent
5 to kill or to inflict great
6 bodily harm.

7 Whoever commits the
8 crime of second degree
9 murder shall be punished by
10 life imprisonment at hard
11 labor without benefit of
12 parole, probation, or
13 suspension of sentence.

14 Your counsel and the District
15 Attorney have conducted plea
16 bargaining relative to your case and
17 have agreed on a sentence of thirty
18 years at hard labor

19 Do you still wish to plead
20 guilty?

21 BY THE DEFENDANT:

22 I'll accept the plea, Your Honor.

23 BY THE COURT:

24 All right. Anyone promise you
25 anything in order to get you to plead
26 guilty?

27 BY THE DEFENDANT.

1 No, not promise me anything.

2 BY THE COURT:

3 Anyone threaten or coerce or beat
4 you or done anything else to persuade
5 you to plead guilty?

6 BY THE DEFENDANT:

7 No, not beat me. The only thing
8 is they said if I don't plead I'll get
9 ninty years and if I accept the
10 plea--

11 BY THE COURT:

12 Well, sir, thats the way the law
13 reads. It is not a coercion, it is
14 just advising you what could happen to
15 you.

16 All right. Now, the District
17 Attorney will now tell me the facts of
18 the case. He will tell me what you
19 did, who was involved and where and so
20 on, Ms. D.A.--

21 BY MS. GRAUNGNARD.

22 Your Honor, an Indictment of
23 committing Second Degree Murder
24 arrives from the following facts:

25 On or about December 15, 1986 one
26 Dora Simpson, an adult male, was
27 forcible removed from Morisant Street

1 in Jefferson Parish and forced to
2 drive his automobile to the Parish of
3 St. John the Baptist to a location in
4 Edgard, Louisiana, on the West Bank of
5 the Mississippi where he was made to
6 leave the automobile and was
7 handcuffed at gun point to a tree and
8 was then shot twice and left for dead
9 and was also robbed.

10 BY THE COURT:

11 The Court is convinced that the
12 defendant has been fully advised of is
13 constitutional rights and he
14 understands the nature of the charges
15 against him and understands the
16 penalty to be imposed. That the plea
17 is freely and voluntarily entered and
18 there is a factual basis for the plea
19 and that the defendant is guilty of
20 the crime charged. Do you waive
21 delays for sentencing, Mr. Landry?

22 BY MR. LANDRY:

23 Yes, we do.

24 BY THE COURT:

25 Okay, Mr. Thompkins, it is the
26 sentence of this Court that you serve
27 thirty (30) Years With The Department

1 Of Corrections. This Sentence Is To
2 Run Concurrent With The Sentence You
3 Have Received In The Parish Of
4 Jefferson, Which I Understand Is For
5 Twenty (20) Years Or Twenty-one (21)
6 Years. You Will Be Given Credit For
7 Time Served.

8 He is to be returned to the
9 Department of Corrections.

10 BY MS. GRAUGNARD.

11 Yes, Honor. In connection with
12 the plea the State would move to nol
13 pros matter number 87-137, which is
14 the Indictment for Armed Robbery.

15 BY THE COURT:

16 So ordered. Okay Mr. Thompkins.

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STATE OF LOUISIANA

VERSUS

HORACE TOPPINS, JR.

40TH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

NUMBER 87-135 87-137

FILED: _____

O R D E R

I hereby order that Doyle Simpson appear in the 40th Judicial District Court located in Edgard, St. John the Baptist Parish, Louisiana, on the 6th day of March, 1989, at 10:00 o'clock a.m.

Edgard, St. John the Baptist Parish, Louisiana, this 21st day of February, 1989.

G. Matton Cave
J U D G E

A TRUE COPY
James C. Brey
DEPUTY CLERK OF COURT
40th JUDICIAL DIST. COURT
PARISH OF ST. JOHN THE BAPTIST, LA.

STATE OF LOUISIANA

VERSUS

HORACE TOPPINS JR.

40TH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

DOCKET NUMBER: 87-135 & 87-137

FILED:

FILED FOR RECORD

89 FEB 27 AM 9:17

CLERK OF COURT

ST. JOHN THE BAPTIST

REQUEST FOR THE ISSUANCE OF A SUBPOENA FOR WITNESSES

I Horace Toppins, who with respect represents that the defendant, is unable to effectively prepare a defense for trial without the testimony of the following witnesses, which is relevant and indispensable to insure the defendant a fair and just trial:

MRS. JO ANN TOPPINS.....1031 Sister St., N.O., La. 70117
APT. D
MS LOLITA TOPPINS.....1031 SISTER ST., N.O., LA. 70117
APT. D
MS NATALIE TOPPINS..... 1031 SISTER ST., N.O., LA. 70117
APT. D
ROBERT M. WATSON M.D.....6610 BULLARD BLVD., N.O., LA. 70128
or his assigns of medical records SUITE 101
MRS. CAROLYN MADERE.....500 Rue de Sante, LaPlace, La. 70068
or her assigns of medical records
MS NINA V. ROBINSON.....176 ROSALIE DR. APT. B, AVONDALE,
LA. 70094
MR. JAMES BARTEE1506 MOISANT ST. KENNER, LA. 70062
MRS. JAMES BARTEE.....1506 MOISANT ST. KENNER, LA. 70062

The attendance of these witnesses is relevant, material, and not cumulative in above matters.

Wherefore, defendant prays that the Clerk of Court summons and order all witnesses to Court for case No's: 87-135 and 87-137

DATE:

Feb 17/89

RESPECTFULLY SUBMITTED

Horace Toppins Jr.
HORACE TOPPINS JR.
PETITIONER PRO SE

Witnesses for the State

No. 87-0137

The State of Louisiana

VS.

HORACE TOPPINS, JR
7318 ALABAMA ST

NEW ORLEANS, LA

INDICTMENT FOR

Armed Robbery

R. S. 14:64

A TRUE BILL

Richard H. Bergeret

Foreman of the Grand Jury,
Parish of
St. John the Baptist

Grand Jury Return
5-4-87 The grand jury appeared in
open court with their return.
Jury polled, a quorum present.
Indictment read aloud -
6-10-87 Def. absent and unrepresented.
Court appoints Barry Landry to represent
def. through the IDB Bond set \$100,000.00
Notify Mr. Landry def in Jefferson
Danish Jail and Arr. set for Aug 10, 1987

8-10-87 defendant present without counsel. Court
appointed Barry Landry to represent the defendant
through the Indigent Defender Board. Atty Sterling
Snowdy stood in for arraignment purposes only.
Arr and pled not guilty. Given 30 days to
file pleadings. Answer filed by State. Defendant
is referred back to Jefferson Parish Correctional
Institute.

6-15-88 Cont'd to July 13, 1988

8-10-88 Def present with atty Barry Landry. Re-
arraigned and pled not guilty. Def is to remain in
Jail. Defense is given 30 days to file pleadings.

9-6-88 Def. absent - Matter cont'd to be assigned.
1-9-89 Def present with atty Barry Landry. Trial set
for March 6, 1989.

2-8-89 Defendant present without counsel. "Motion to
Quash" filed by defendant and is set for March 6, 1989
at 9:00 A.M. Defendant is to be returned to Dept of
Corrections

3-6-89 Nolle Prossed refer to #87-135.

STATE OF LOUISIANA

VERSUS

HORACE TOPPINS JR.

40TH JUDICIAL DISTRICT CT.

ST. JOHN THE BAPTIST PARISH

STATE OF LOUISIANA

NUMBER 87-135 and 87-137

FILED: _____

ANSWER TO MOTION DISCOVERY, BILL OF

PARTICULARS AND MOTION FOR PRODUCTION

FILED FOR RECORD
1987 AUG 10 PM 3:11
CLERK OF COURT
PARISH OF ST. JOHN
THE BAPTIST LA

NOW INTO COURT comes John M. Crum, Jr., District Attorney,
representing the State of Louisiana herein and in answer to the Answer
to Motion for Discovery, Bill of Particulars and Motion for Production
says:

I.

December 15, 1986, between 12:00 and 1:00 p.m. 1.6 miles wes
of Texaco Station in Edgard, Louisiana

II.

A January 2, 1987, at app. 1:30 a.m. in in Orleans Parish, LA

B The defendant was arrested by Orleans Parish Authorities in
presence of of Kenner and St. John the Baptist Parish authorities.

Yes see attached

Not Applicable

III.

Will allow an inspection

B Yes See copy of Search Warrant.

C Also, evidence was collected from the crime scene and vic-
tim's automobile.

IV.

Will provide

V.

No

VI.

No

VII.

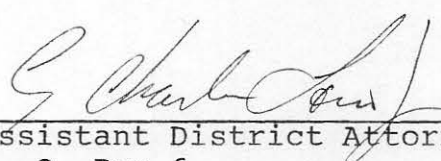
AB No

VIII.

A Not applicable

B No

		IX.
	No	
		X.
	No.	
		XI.
	Yes	
		XII
	Will provide when available	
		XIII.
	No.	
		XIV
	No	
		XV
	No	
		XVI
	No	
		XVII
A	No	
B	Not Applicable	
		XVIII
A	No	
B	Not Applicable	
		XIX-XXIV
	None	
	WHEREFORE RESPONDENT PRAYS that this answer be deemed suffi-	
	cient.	


Assistant District Attorney
P. O. Box 6
Edgard, Louisiana
(504-469-1643)

192

GENERAL AND SUBPOENA DOCKET, CIVIL CASES — J

MONTGOMERY COUNTY, MISSISSIPPI

No. 7395State of Louisiana

vs.

Horace Poppins, Jr.

PLAINTIFF'S ATTORNEYS

Edwin Snyder, Jr., A.

DEFENDANT'S ATTORNEYS

Month	Day	Year	PLEADINGS, EXHIBITS, ORDERS FILED, DISPOSITION	Min. Book	Page
			<u>RE: Out of State Witness Proceeding</u>		
Feb.	28	1989	<u>Motion To Obtain Out of State Witness Filed</u>		
Feb.	28	1989	<u>Order And Summons Directing Witness To Appear And Testify</u>		
			<u>In State of Louisiana In the Case of State of</u>		
			<u>Louisiana Vs. Horace Poppins, Jr.</u>		
Feb.	28	1989	<u>Order And summons directing Witness To Appear and</u>		
			<u>Testify In State of Louisiana In Case of State</u>		
			<u>of Louisiana Vs. Horace Poppins, Jr.</u>		
Feb.	28	1989	<u>Copy of Check to Royle Simpson from Dist. Atty.</u>		

State of Miss. vs. *Norace Hoppins, Jr.* CASE NO. *7395*

No. *7395*

IN THE
CIRCUIT COURT
MONTGOMERY COUNTY, MISSISSIPPI

Term 19

State of Louisiana

Plaintiff.

vs.

Norace Hoppins, Jr.

Defendant.

Action for

Docket No.

A

Page

192

Attorney for Plaintiff.

Attorney for Defendant.

Remarks:

September 30, 2013

The contents of this file have been destroyed.

See: Order for Destruction of Civil Files signed by Joseph H. Loper, Jr. dated 8/26/13 and recorded in Minute Book 1 at page 496

Records Disposal Authorization signed H. T. Holmes, Director, Mississippi Department of Archives and History dated 9/9/13 and recorded in Minute Book 1 at page 494.

State of Miss. vs. Horace C. Loper, Jr.
CASE NO. 7395